

Pub. L. 113–66, div. C, title XXXI, §3145(j), Dec. 26, 2013, 127 Stat. 1072.)

AMENDMENTS

2013—Subsec. (c). Pub. L. 112–239, §3132(b)(1)(A), substituted “of the Administration” for “specified in subsection (a)”.

Subsec. (d). Pub. L. 112–239, §3132(b)(1)(B), added subsec. (d).

Subsec. (d)(1). Pub. L. 113–66 realigned margins of concluding provisions.

Subsec. (e). Pub. L. 112–239, §3132(b)(1)(B), added subsec. (e).

CONSTRUCTION

Pub. L. 112–239, div. C, title XXXI, §3132(b)(3), Jan. 2, 2013, 126 Stat. 2186, provided that: “Nothing in section 3291 of the National Nuclear Security Administration Act (50 U.S.C. 2481), as amended by paragraph (1), may be construed to affect any function or activity transferred by the Secretary of Energy to the Administrator for Nuclear Security before the date of the enactment of this Act [Jan. 2, 2013].”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, see sections 183(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§§ 2482, 2483. Repealed. Pub. L. 112–239, div. C, title XXXI, §3132(c)(1)(B), (C), Jan. 2, 2013, 126 Stat. 2186, 2187

Section 2482, Pub. L. 106–65, div. C, title XXXII, §3292, Oct. 5, 1999, 113 Stat. 969, related to transfer of funds and employees.

Section 2483, Pub. L. 106–65, div. C, title XXXII, §3295, Oct. 5, 1999, 113 Stat. 970, related to transition provisions.

§ 2484. Applicability of preexisting laws and regulations

With respect to any facility, mission, or function of the Department of Energy that the Secretary of Energy transfers to the Administrator under section 3291, unless otherwise provided in this chapter, all provisions of law and regulations in effect immediately before the date of the transfer that are applicable to such facility, mission, or function shall continue to apply to the corresponding functions of the Administration.

(Pub. L. 106–65, div. C, title XXXII, §3296, Oct. 5, 1999, 113 Stat. 971; Pub. L. 112–239, div. C, title XXXI, §3132(b)(2), Jan. 2, 2013, 126 Stat. 2186.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title XXXII of div. C of Pub. L. 106–65, Oct. 5, 1999, 113 Stat. 953, as amended, which is classified principally to this chapter. For effective date of this chapter, see section 3299 of Pub. L. 106–65, set out as an Effective Date note under section 2401 of this title. For complete classification of title XXXII to the Code, see Short Title note set out under section 2401 of this title and Tables.

AMENDMENTS

2013—Pub. L. 112–239 amended section generally. Prior to amendment, text read as follows: “Unless otherwise

provided in this chapter, all provisions of law and regulations in effect immediately before the effective date of this chapter that are applicable to functions of the Department of Energy specified in section 2481 of this title shall continue to apply to the corresponding functions of the Administration.”

CHAPTER 42—ATOMIC ENERGY DEFENSE PROVISIONS

Sec.
2501. Definitions.

SUBCHAPTER I—ORGANIZATIONAL MATTERS

2511. Naval Nuclear Propulsion Program.
2512. Management structure for nuclear security enterprise.
2513. Restriction on licensing requirement for certain defense activities and facilities.
2514. Transferred.
2515. Establishment of Center for Security Technology, Analysis, Response, and Testing.

SUBCHAPTER II—NUCLEAR WEAPONS STOCKPILE MATTERS

PART A—STOCKPILE STEWARDSHIP AND WEAPONS PRODUCTION

2521. Stockpile stewardship program.
2522. Stockpile stewardship criteria.
2523. Nuclear weapons stockpile stewardship, management, and infrastructure plan.
2523a. Repealed.
2523b. Transferred.
2523c. Major warhead refurbishment program.
2524. Stockpile management program.
2524a. Repealed.
2525. Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile.
2526. Form of certifications regarding the safety or reliability of the nuclear weapons stockpile.
2527. Nuclear test ban readiness program.
2528, 2528a. Repealed.
2529. Requirements for specific request for new or modified nuclear weapons.
2530. Testing of nuclear weapons.
2531. Repealed.
2532. Manufacturing infrastructure for refabrication and certification of nuclear weapons stockpile.
2533. Reports on critical difficulties at national security laboratories and nuclear weapons production facilities.
2534. Repealed.
2535. Replacement project for Chemistry and Metallurgy Research Building, Los Alamos National Laboratory, New Mexico.
2536. Reports on lifetime extension programs.
2537. Selected Acquisition Reports and independent cost estimates and reviews of life extension programs and new nuclear facilities.
2538. Advice to President and Congress regarding safety, security, and reliability of United States nuclear weapons stockpile.
2538a. Plutonium pit production capacity.

PART B—TRITIUM

2541. Tritium production program.
2542. Tritium recycling.
2543. Repealed.
2544. Modernization and consolidation of tritium recycling facilities.
2545. Procedures for meeting tritium production requirements.

SUBCHAPTER III—PROLIFERATION MATTERS

2561, 2562. Repealed.
2563. Annual report on status of Nuclear Materials Protection, Control, and Accounting Program.

	Sec.		
2564.	Repealed.	2652.	Restrictions on access to national security laboratories by foreign visitors from sensitive countries.
2565.	Authority to conduct program relating to fissile materials.	2653.	Background investigations of certain personnel at Department of Energy facilities.
2566.	Disposition of weapons-usable plutonium at Savannah River Site.	2654.	Department of Energy counterintelligence polygraph program.
2567.	Disposition of surplus defense plutonium at Savannah River Site, Aiken, South Carolina.	2655.	Repealed.
2568.	Authority to use international nuclear materials protection and cooperation program funds outside the former Soviet Union.	2656.	Notice to congressional committees of certain security and counterintelligence failures within atomic energy defense programs.
2569.	Acceleration of removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide.	2657.	Annual report and certification on status of security of atomic energy defense facilities.
2570.	Silk Road Initiative.	2658.	Repealed.
2571.	Nuclear Nonproliferation Fellowships for scientists employed by United States and Russian Federation.	2659.	Report on security vulnerabilities of national security laboratory computers.
2572.	International agreements on nuclear weapons data.	2660.	Design and use of prototypes of nuclear weapons for intelligence purposes.
2573.	International agreements on information on radioactive materials.		PART B—CLASSIFIED INFORMATION
2574.	Enhancing nuclear forensics capabilities.	2671.	Review of certain documents before declassification and release.
SUBCHAPTER IV—DEFENSE ENVIRONMENTAL CLEANUP MATTERS		2672.	Protection against inadvertent release of Restricted Data and Formerly Restricted Data.
PART A—DEFENSE ENVIRONMENTAL CLEANUP		2673.	Supplement to plan for declassification of Restricted Data and Formerly Restricted Data.
2581.	Defense Environmental Cleanup Account.	2674.	Protection of classified information during laboratory-to-laboratory exchanges.
2582.	Requirement to develop future use plans for defense environmental cleanup.	2675.	Identification in budget materials of amounts for declassification activities and limitation on expenditures for such activities.
2582a.	Future-years defense environmental cleanup plan.		SUBCHAPTER VI—PERSONNEL MATTERS
2583.	Integrated fissile materials management plan.		PART A—PERSONNEL MANAGEMENT
2584.	Repealed.	2701.	Authority for appointment of certain scientific, engineering, and technical personnel.
2585.	Accelerated schedule for defense environmental cleanup activities.	2702.	Whistleblower protection program.
2586.	Defense environmental cleanup technology program.	2703.	Repealed.
2587.	Report on defense environmental cleanup expenditures.	2704.	Department of Energy defense nuclear facilities workforce restructuring plan.
2588.	Public participation in planning for defense environmental cleanup.	2705.	Authority to provide certificate of commendation to Department of Energy and contractor employees for exemplary service in stockpile stewardship and security.
2589.	Policy of Department of Energy regarding future defense environmental management matters.		PART B—EDUCATION AND TRAINING
	PART B—CLOSURE OF FACILITIES	2721.	Executive management training in Department of Energy.
2601.	Repealed.	2722.	Stockpile stewardship recruitment and training program.
2602.	Reports in connection with permanent closures of Department of Energy defense nuclear facilities.	2723.	Fellowship program for development of skills critical to the nuclear security enterprise.
PART C—HANFORD RESERVATION, WASHINGTON			PART C—WORKER SAFETY
2621.	Safety measures for waste tanks at Hanford Nuclear Reservation.	2731.	Worker protection at nuclear weapons facilities.
2622.	Hanford waste tank cleanup program reforms.	2732.	Safety oversight and enforcement at defense nuclear facilities.
2623.	River Protection Project.	2733.	Program to monitor Department of Energy workers exposed to hazardous and radioactive substances.
2624.	Funding for termination costs of River Protection Project, Richland, Washington.	2734.	Programs for persons who may have been exposed to radiation released from Hanford Nuclear Reservation.
2625.	Plan for tank farm waste at Hanford Nuclear Reservation.	2735.	Use of probabilistic risk assessment to ensure nuclear safety of facilities of the Administration and the Office of Environmental Management.
PART D—SAVANNAH RIVER SITE, SOUTH CAROLINA		2736.	Notification of nuclear criticality and non-nuclear incidents.
2631.	Accelerated schedule for isolating high-level nuclear waste at the Defense Waste Processing Facility, Savannah River Site.		
2632.	Multi-year plan for clean-up.		
2633.	Continuation of processing, treatment, and disposal of legacy nuclear materials.		
2634 to 2637.	Repealed.		
2638.	Limitation on use of funds for decommissioning F-canyon facility.		
SUBCHAPTER V—SAFEGUARDS AND SECURITY MATTERS			
PART A—SAFEGUARDS AND SECURITY			
2651.	Prohibition on international inspections of Department of Energy facilities unless protection of Restricted Data is certified.		

Sec.

SUBCHAPTER VII—BUDGET AND FINANCIAL
MANAGEMENT MATTERSPART A—RECURRING NATIONAL SECURITY
AUTHORIZATION PROVISIONS

- 2741. Definitions.
- 2742. Reprogramming.
- 2743. Minor construction projects.
- 2743a. General plant projects.
- 2744. Limits on construction projects.
- 2745. Fund transfer authority.
- 2746. Conceptual and construction design.
- 2747. Authority for emergency planning, design, and construction activities.
- 2748. Scope of authority to carry out plant projects.
- 2749. Availability of funds.
- 2750. Transfer of defense environmental cleanup funds.
- 2751. Transfer of weapons activities funds.
- 2752. Funds available for all national security programs of the Department of Energy.
- 2753. Notification of cost overruns for certain Department of Energy projects.
- 2754. Life-cycle cost estimates of certain atomic energy defense capital assets.

PART B—PENALTIES

- 2761. Restriction on use of funds to pay penalties under environmental laws.
- 2762. Restriction on use of funds to pay penalties under Clean Air Act.

PART C—OTHER MATTERS

- 2771. Repealed.
- 2772. Quarterly reports on financial balances for atomic energy defense activities.

SUBCHAPTER VIII—ADMINISTRATIVE MATTERS

PART A—CONTRACTS

- 2781. Costs not allowed under covered contracts.
- 2782. Prohibition and report on bonuses to contractors operating defense nuclear facilities.
- 2783. Contractor liability for injury or loss of property arising out of atomic weapons testing programs.
- 2784. Notice-and-wait requirement applicable to certain third-party financing arrangements.
- 2785. Publication of contractor performance evaluations leading to award fees.
- 2786. Enhanced procurement authority to manage supply chain risk.

PART B—RESEARCH AND DEVELOPMENT

- 2791. Laboratory-directed research and development programs.
- 2791a. Laboratory-directed research and development.
- 2791b. Charges to individual program, project, or activity.
- 2792. Limitations on use of funds for laboratory directed research and development purposes.
- 2793. Report on use of funds for certain research and development purposes.
- 2794. Critical technology partnerships and cooperative research and development centers.
- 2795. University-based research collaboration program.

PART C—FACILITIES MANAGEMENT

- 2811. Transfers of real property at certain Department of Energy facilities.
- 2812. Engineering and manufacturing research, development, and demonstration by managers of certain nuclear weapons production facilities.
- 2813. Pilot program relating to use of proceeds of disposal or utilization of certain Department of Energy assets.

Sec.

2814. Department of Energy energy parks program.

PART D—OTHER MATTERS

- 2821. Repealed.
- 2822. Payment of costs of operation and maintenance of infrastructure at Nevada National Security Site.

§ 2501. Definitions

Except as otherwise provided, in this chapter:

(1) The term “Administration” means the National Nuclear Security Administration.

(2) The term “Administrator” means the Administrator for Nuclear Security.

(3) The term “classified information” means any information that has been determined pursuant to Executive Order No. 12333 of December 4, 1981 (50 U.S.C. 3001 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 3161 note), Executive Order No. 13526 of December 29, 2009 (50 U.S.C. 3161 note), or successor orders, to require protection against unauthorized disclosure and that is so designated.

(4) The term “congressional defense committees” means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(5) The terms “defense nuclear facility” and “Department of Energy defense nuclear facility” have the meaning given the term “Department of Energy defense nuclear facility” in section 2286g of title 42.

(6) The term “nuclear security enterprise” means the physical facilities, technology, and human capital of the national security laboratories and the nuclear weapons production facilities.

(7) The term “national security laboratory” means any of the following:

(A) Los Alamos National Laboratory, Los Alamos, New Mexico.

(B) Sandia National Laboratories, Albuquerque, New Mexico, and Livermore, California.

(C) Lawrence Livermore National Laboratory, Livermore, California.

(8) The term “Nuclear Weapons Council” means the Nuclear Weapons Council established by section 179 of title 10.

(9) The term “nuclear weapons production facility” means any of the following:

(A) The Kansas City Plant, Kansas City, Missouri.

(B) The Pantex Plant, Amarillo, Texas.

(C) The Y-12 National Security Complex, Oak Ridge, Tennessee.

(D) The Savannah River Site, Aiken, South Carolina.

(E) The Nevada National Security Site, Nevada.

(F) Any facility of the Department of Energy that the Secretary of Energy, in consultation with the Administrator and Congress, determines to be consistent with the mission of the Administration.

(10) The term “Restricted Data” has the meaning given such term in section 2014(y) of title 42.

(Pub. L. 107-314, div. D, §4002, as added Pub. L. 108-136, div. C, title XXXI, §3141(c)(2), Nov. 24, 2003, 117 Stat. 1756; amended Pub. L. 112-239, div. C, title XXXI, §3131(a)(1), Jan. 2, 2013, 126 Stat. 2179; Pub. L. 113-66, div. C, title XXXI, §3146(a)(1), Dec. 26, 2013, 127 Stat. 1072; Pub. L. 113-291, div. C, title XXXI, §3142(a), Dec. 19, 2014, 128 Stat. 3900.)

REFERENCES IN TEXT

Executive Order No. 12958, referred to in par. (3), which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

AMENDMENTS

2014—Par. (3). Pub. L. 113-291 substituted “Executive Order No. 12333 of December 4, 1981 (50 U.S.C. 3001 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 3161 note), Executive Order No. 13526 of December 29, 2009 (50 U.S.C. 3161 note),” for “Executive Order No. 12333 of December 4, 1981 (50 U.S.C. 401 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 435 note).”

2013—Pub. L. 113-66, §3146(a)(1)(A), substituted “Except as otherwise provided, in this chapter” for “In this chapter” in introductory provisions.

Pub. L. 112-239 amended section generally. Prior to amendment, section defined “congressional defense committees”.

Pars. (5) to (10). Pub. L. 113-66, §3146(a)(1)(B)–(E), added pars. (5) and (8), redesignated former pars. (5), (6), (7), and (8) as (6), (7), (9), and (10), respectively, and, in par. (10), substituted “Restricted Data” for “restricted data”.

SHORT TITLE

Pub. L. 107-314, div. D, §4001(a), formerly div. C, title XXXVI, §3601, Dec. 2, 2002, 116 Stat. 2756, renumbered div. D, §4001, and amended by Pub. L. 108-136, div. C, title XXXI, §3141(c)(1)(A)–(D)(ii), Nov. 24, 2003, 117 Stat. 1753, provided that: “This division [enacting this chapter] may be cited as the ‘Atomic Energy Defense Act.’”

TRANSFER AND CONSOLIDATION OF RECURRING AND GENERAL PROVISIONS ON DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Pub. L. 108-136, div. C, title XXXI, §3141(a), Nov. 24, 2003, 117 Stat. 1752, provided that:

“(1) IN GENERAL.—The purpose of this section [see Tables for classification] is to assemble together, without substantive amendment but with technical and conforming amendments of a non-substantive nature, recurring and general provisions of law on Department of Energy national security programs that remain in force in order to consolidate and organize such provisions of law into a single Act intended to comprise general provisions of law on such programs.

“(2) CONSTRUCTION OF TRANSFERS.—The transfer of a provision of law by this section shall not be construed as amending, altering, or otherwise modifying the substantive effect of such provision.

“(3) TREATMENT OF SATISFIED REQUIREMENTS.—Any requirement in a provision of law transferred under this section (including a requirement that an amendment to law be executed) that has been fully satisfied in accordance with the terms of such provision of law as of the date of transfer under this section shall be treated as so fully satisfied, and shall not be treated as being revived solely by reason of transfer under this section.

“(4) CLASSIFICATION.—The provisions of the Atomic Energy Defense Act [Pub. L. 107-314, div. D, 50 U.S.C. 2501 et seq.], as amended by this section, shall be classified to the United States Code as a new chapter of title 50, United States Code.”

SUBCHAPTER I—ORGANIZATIONAL MATTERS

§ 2511. Naval Nuclear Propulsion Program

The provisions of Executive Order Numbered 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program, shall remain in force until changed by law.

(Pub. L. 107-314, div. D, title XLI, §4101, formerly Pub. L. 98-525, title XVI, §1634, Oct. 19, 1984, 98 Stat. 2649; renumbered Pub. L. 107-314, div. D, title XLI, §4101, and amended Pub. L. 108-136, div. C, title XXXI, §3141(d)(2), Nov. 24, 2003, 117 Stat. 1757.)

REFERENCES IN TEXT

Executive Order Numbered 12344, referred to in text, is set out as a note below.

CODIFICATION

Section was formerly set out as a note under section 7158 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

TRANSFER OF FUNCTIONS

All national security functions and activities performed immediately before Oct. 5, 1999, by the Office of Naval Reactors transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, and the Deputy Administrator for Naval Reactors of the Administration to be assigned the responsibilities, authorities, and accountability for all functions of the Office of Naval Reactors under Executive Order No. 12344, set out below, see sections 2406 and 2481 of this title.

EXECUTIVE ORDER NO. 12344 TO REMAIN IN FORCE

Except as otherwise specified in section 2406 of this title and notwithstanding any other provision of title XXXII of Pub. L. 106-65 (see Short Title note set out under section 2401 of this title), the provisions of Executive Order No. 12344 (set out below) to remain in full force and effect until changed by law, see section 2406 of this title.

EX. ORD. NO. 12344. NAVAL NUCLEAR PROPULSION PROGRAM

Ex. Ord. No. 12344, Feb. 1, 1982, 47 F.R. 4979, provided: By the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States of America, with recognition of the crucial importance to national security of the Naval Nuclear Propulsion Program, and for the purpose of preserving the basic structure, policies, and practices developed for this Program in the past and assuring that the Program will continue to function with excellence, it is hereby ordered as follows:

SECTION 1. The Naval Nuclear Propulsion Program is an integrated program carried out by two organizational units, one in the Department of Energy and the other in the Department of the Navy.

SEC. 2. Both organizational units shall be headed by the same individual so that the activities of each may continue in practice under common management. This individual shall direct the Naval Nuclear Propulsion Program in both departments. The director shall be qualified by reason of technical background and experience in naval nuclear propulsion. The director may be either a civilian or an officer of the United States Navy, active or retired.

SEC. 3. The Secretary of the Navy (through the Secretary of Defense) and the Secretary of Energy shall obtain the approval of the President to appoint the director of the Naval Nuclear Propulsion Program for their respective Departments. The director shall be appointed to serve a term of eight years, except that the

Secretary of Energy and the Secretary of the Navy may, with mutual concurrence, terminate or extend the term of the respective appointments.

SEC. 4. An officer of the United States Navy appointed as director shall be nominated for the grade of Admiral. A civilian serving as director shall be compensated at a rate to be specified at the time of appointment.

SEC. 5. Within the Department of Energy, the Secretary of Energy shall assign to the director the responsibility of performing the functions of the Division of Naval Reactors transferred to the Department of Energy by Section 309(a) of the Department of Energy Organization Act (42 U.S.C. 7158), including assigned civilian power reactor programs, and any naval nuclear propulsion functions of the Department of Energy, including:

(a) direct supervision over the Bettis and Knolls Atomic Power Laboratories, the Expanded Core Facility and naval reactor prototype plants;

(b) research, development, design, acquisition, specification, construction, inspection, installation, certification, testing, overhaul, refueling, operating practices and procedures, maintenance, supply support, and ultimate disposition, of naval nuclear propulsion plants, including components thereof, and any special maintenance and service facilities related thereto;

(c) the safety of reactors and associated naval [naval] nuclear propulsion plants, and control of radiation and radioactivity associated with naval nuclear propulsion activities, including prescribing and enforcing standards and regulations for these areas as they affect the environment and the safety and health of workers, operators, and the general public;

(d) training, including training conducted at the naval prototype reactors of the Department of Energy, and assistance and concurrence in the selection, training, qualification, and assignment of personnel reporting to the director and of personnel who supervise, operate, or maintain naval nuclear propulsion plants; and

(e) administration of the Naval Nuclear Propulsion Program, including oversight of program support in areas such as security, nuclear safeguards and transportation, public information, procurement, logistics and fiscal management.

SEC. 6. Within the Department of Energy, the director shall report to the Secretary of Energy, through the Assistant Secretary assigned nuclear energy functions and shall serve as a Deputy Assistant Secretary. The director shall have direct access to the Secretary of Energy and other senior officials in the Department of Energy concerning naval nuclear propulsion matters, and to all other personnel who supervise, operate or maintain naval nuclear propulsion plants and support facilities for the Department of Energy.

SEC. 7. Within the Department of the Navy, the Secretary of the Navy shall assign to the director responsibility to supervise all technical aspects of the Navy's nuclear propulsion work, including:

(a) research, development, design, procurement, specification, construction, inspection, installation, certification, testing, overhaul, refueling, operating practices and procedures, maintenance, supply support, and ultimate disposition, of naval nuclear propulsion plants, including components thereof, and any special maintenance and service facilities related thereto; and

(b) training programs, including Nuclear Power Schools of the Navy, and assistance and concurrence in the selection, training, qualification, and assignment of personnel reporting to the director and of Government personnel who supervise, operate, or maintain naval nuclear propulsion plants.

SEC. 8. Within the Department of the Navy, the Secretary of the Navy shall assign to the director responsibility within the Navy for:

(a) the safety of reactors and associated naval nuclear propulsion plants, and control of radiation and radioactivity associated with naval nuclear propulsion activities, including prescribing and enforcing standards and regulations for these areas as they affect the

environment and the safety and health of workers, operators, and the general public.

(b) administration of the Naval Nuclear Propulsion Program, including oversight of program support in areas such as security, nuclear safeguards and transportation, public information, procurement, logistics, and fiscal management.

SEC. 9. In addition to any other organizational assignments within the Department of the Navy, the director shall report directly to the Chief of Naval Operations. The director shall have direct access to the Secretary of the Navy and other senior officials in the Department of the Navy concerning naval nuclear propulsion matters, and to all other Government personnel who supervise, operate, or maintain naval nuclear propulsion plants and support facilities.

SEC. 10. This Order is effective on February 1, 1982.

RONALD REAGAN.

§ 2512. Management structure for nuclear security enterprise

(a) In general

The Administrator shall establish a management structure for the nuclear security enterprise in accordance with the National Nuclear Security Administration Act (50 U.S.C. 2401 et seq.).

(b) National Nuclear Security Administration Council

(1) The Administrator shall establish a council to be known as the "National Nuclear Security Administration Council". The Council may advise the Administrator on—

(A) scientific and technical issues relating to policy matters;

(B) operational concerns;

(C) strategic planning;

(D) the development of priorities relating to the mission and operations of the Administration and the nuclear security enterprise; and

(E) such other matters as the Administrator determines appropriate.

(2) The Council shall be composed of the directors of the national security laboratories and the nuclear weapons production facilities.

(3) The Council may provide the Administrator or the Secretary of Energy recommendations—

(A) for improving the governance, management, effectiveness, and efficiency of the Administration; and

(B) relating to any other matter in accordance with paragraph (1).

(4) Not later than 60 days after the date on which any recommendation under paragraph (3) is received, the Administrator or the Secretary, as the case may be, shall respond to the Council with respect to whether such recommendation will be implemented and the reasoning for implementing or not implementing such recommendation.

(Pub. L. 107–314, div. D, title XLI, § 4102, formerly Pub. L. 104–201, div. C, title XXXI, § 3140, Sept. 23, 1996, 110 Stat. 2833; renumbered Pub. L. 107–314, div. D, title XLI, § 4102, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(d)(3), Nov. 24, 2003, 117 Stat. 1757; Pub. L. 112–239, div. C, title XXXI, § 3113(a), Jan. 2, 2013, 126 Stat. 2169; Pub. L. 113–291, div. C, title XXXI, § 3142(b), Dec. 19, 2014, 128 Stat. 3900.)

REFERENCES IN TEXT

The National Nuclear Security Administration Act, referred to in subsec. (a), is Pub. L. 106–65, div. C, title XXXII, Oct. 5, 1999, 113 Stat. 953, which is classified principally to chapter 41 (§2401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of this title and Tables.

CODIFICATION

Section was formerly set out as a note under section 7252 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2014—Subsec. (b)(3). Pub. L. 113–291, §3142(b)(1), struck out “for improving the” after “recommendations” in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 113–291, §3142(b)(2), inserted “for improving the” before “governance”.

Subsec. (b)(3)(B). Pub. L. 113–291, §3142(b)(3), inserted “relating to” before “any other”.

2013—Pub. L. 112–239 amended section generally. Prior to amendment, section related to reorganization of field activities and management of national security functions.

2003—Subsec. (d)(2). Pub. L. 108–136, §3141(d)(3)(D), substituted “January 21, 1997,” for “120 days after the date of the enactment of this Act,”.

CLARIFICATION OF ROLE OF SECRETARY OF ENERGY

Pub. L. 113–66, div. C, title XXXI, §3141, Dec. 26, 2013, 127 Stat. 1069, provided that: “The amendment made by section 3113 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 2169) to section 4102 of the Atomic Energy Defense Act (50 U.S.C. 2512) may not be construed as affecting the authority of the Secretary of Energy, in carrying out national security programs, with respect to the management, planning, and oversight of the National Nuclear Security Administration or as affecting the delegation by the Secretary of authority to carry out such activities, as set forth under subsection (a) of such section 4102 as it existed before the amendment made by such section 3113.”

§ 2513. Restriction on licensing requirement for certain defense activities and facilities

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3197) or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

(Pub. L. 107–314, div. D, title XLI, §4103, formerly Pub. L. 96–540, title II, §210, Dec. 17, 1980, 94 Stat. 3202; renumbered Pub. L. 107–314, div. D, title XLI, §4103, and amended Pub. L. 108–136, div. C, title XXXI, §3141(d)(4), Nov. 24, 2003, 117 Stat. 1757; Pub. L. 113–66, div. C, title XXXI, §3146(b), Dec. 26, 2013, 127 Stat. 1073.)

REFERENCES IN TEXT

The Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, referred to in text, is Pub. L. 96–540, Dec. 17, 1980, 94 Stat. 3197, which enacted this section and section 2762 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 7272 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriations act:

Pub. L. 96–164, title II, §210, Dec. 29, 1979, 93 Stat. 1264.

AMENDMENTS

2013—Pub. L. 113–66 inserted “; 94 Stat. 3197” after “Public Law 96–540”.

2003—Pub. L. 108–136, §3131(d)(4)(C)(iii), substituted “the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act” for “this or any other Act”.

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of Title 42, The Public Health and Welfare.

§ 2514. Transferred

CODIFICATION

Section, Pub. L. 112–81, div. A, title X, §1077, Dec. 31, 2011, 125 Stat. 1596, which related to reports to Congress on the modification of the force structure for the strategic nuclear weapons delivery systems of the United States, was transferred to section 493 of Title 10, Armed Forces, by Pub. L. 112–239, div. A, title X, §1031(b)(3)(B)(i)–(iii), Jan. 2, 2013, 126 Stat. 1918.

§ 2515. Establishment of Center for Security Technology, Analysis, Response, and Testing

(a) Establishment

The Administrator for Nuclear Security shall establish within the nuclear security enterprise (as defined in section 2501 of this title) a Center for Security Technology, Analysis, Response, and Testing.

(b) Duties

The center established under subsection (a) shall carry out the following:

(1) Provide to the Administrator, the Chief of Defense Nuclear Security, and the management and operating contractors of the nuclear security enterprise a wide range of objective expertise on security technologies, systems, analysis, testing, and response forces.

(2) Assist the Administrator in developing standards, requirements, analysis methods, and testing criteria with respect to security.

(3) Collect, analyze, and distribute lessons learned with respect to security.

(4) Support inspections and oversight activities with respect to security.

(5) Promote professional development and training for security professionals.

(6) Provide for advance and bulk procurement for security-related acquisitions that affect multiple facilities of the nuclear security enterprise.

(7) Advocate for continual improvement and security excellence throughout the nuclear security enterprise.

(8) Such other duties as the Administrator may assign.

(Pub. L. 113–66, div. C, title XXXI, §3116, Dec. 26, 2013, 127 Stat. 1058.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2014, and not as part

of the Atomic Energy Defense Act which comprises this chapter.

SUBCHAPTER II—NUCLEAR WEAPONS STOCKPILE MATTERS

PART A—STOCKPILE STEWARDSHIP AND WEAPONS PRODUCTION

§ 2521. Stockpile stewardship program

(a) Establishment

The Secretary of Energy, acting through the Administrator, shall establish a stewardship program to ensure—

- (1) the preservation of the core intellectual and technical competencies of the United States in nuclear weapons, including weapons design, system integration, manufacturing, security, use control, reliability assessment, and certification; and
- (2) that the nuclear weapons stockpile is safe, secure, and reliable without the use of underground nuclear weapons testing.

(b) Program elements

The program shall include the following:

- (1) An increased level of effort for advanced computational capabilities to enhance the simulation and modeling capabilities of the United States with respect to the performance over time of nuclear weapons.

- (2) An increased level of effort for above-ground experimental programs, such as hydrotesting, high-energy lasers, inertial confinement fusion, plasma physics, and materials research.

- (3) Support for new facilities construction projects that contribute to the experimental capabilities of the United States, such as an advanced hydrodynamics facility, the National Ignition Facility, and other facilities for above-ground experiments to assess nuclear weapons effects.

- (4) Support for the use of, and experiments facilitated by, the advanced experimental facilities of the United States, including—

(A) the National Ignition Facility at Lawrence Livermore National Laboratory;

(B) the Dual Axis Radiographic Hydrodynamic Test Facility at Los Alamos National Laboratory;

(C) the Z Machine at Sandia National Laboratories; and

(D) the experimental facilities at the Nevada National Security Site.

- (5) Support for the sustainment and modernization of facilities with production and manufacturing capabilities that are necessary to ensure the safety, security, and reliability of the nuclear weapons stockpile, including—

(A) the nuclear weapons production facilities; and

(B) production and manufacturing capabilities resident in the national security laboratories.

(Pub. L. 107–314, div. D, title XLII, § 4201, formerly Pub. L. 103–160, div. C, title XXXI, § 3138, Nov. 30, 1993, 107 Stat. 1946; Pub. L. 105–85, div. C, title XXXI, § 3152(e), Nov. 18, 1997, 111 Stat. 2042; renumbered Pub. L. 107–314, div. D, title XLII,

§ 4201, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(2), Nov. 24, 2003, 117 Stat. 1758; Pub. L. 111–84, div. C, title XXXI, § 3111, Oct. 28, 2009, 123 Stat. 2702; Pub. L. 112–239, div. C, title XXXI, § 3131(b), (bb)(1)(C), Jan. 2, 2013, 126 Stat. 2180, 2185; Pub. L. 113–66, div. C, title XXXI, § 3146(c)(1), Dec. 26, 2013, 127 Stat. 1073.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–66, § 3146(c)(1)(A), struck out “for Nuclear Security” after “Administrator” in introductory provisions.

Subsec. (b)(4)(D). Pub. L. 113–66, § 3146(c)(1)(B)(i), which directed substitution of “Nevada National Security Site” for “Nevada national security site”, could not be executed because the words “Nevada National Security Site” already appeared in text after the amendment by Pub. L. 112–239, § 3131(bb)(1)(C). See below.

Pub. L. 112–239, § 3131(bb)(1)(C), which directed substitution of “Nevada National Security Site” for “Nevada Test Site”, was executed by making the substitution for “Nevada test site”, to reflect the probable intent of Congress.

Subsec. (b)(5). Pub. L. 113–66, § 3146(c)(1)(B)(ii), added subpar. (A), redesignated subpar. (E) as (B), and struck out former subpars. (A) to (D) which read as follows:

“(A) the Pantex Plant;

“(B) the Y–12 National Security Complex;

“(C) the Kansas City Plant;

“(D) the Savannah River Site; and”.

Subsec. (b)(5)(E). Pub. L. 112–239, § 3131(b), struck out “(as defined in section 2471 of this title)” after “laboratories”.

2009—Subsec. (a). Pub. L. 111–84, § 3111(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of Energy shall establish a stewardship program to ensure the preservation of the core intellectual and technical competencies of the United States in nuclear weapons, including weapons design, system integration, manufacturing, security, use control, reliability assessment, and certification.”

Subsec. (b)(1). Pub. L. 111–84, § 3111(b)(1), substituted “performance over time” for “detonation”.

Subsec. (b)(4), (5). Pub. L. 111–84, § 3111(b)(2), added pars. (4) and (5).

Subsec. (c). Pub. L. 111–84, § 3111(c), struck out subsec. (c). Text read as follows: “Of funds authorized to be appropriated to the Secretary of Energy for fiscal year 1994 for weapons activities, \$157,400,000 shall be available for the stewardship program established under subsection (a).”

1997—Subsec. (d). Pub. L. 105–85, which directed amendment of this section by striking out subsecs. (d) and (e), redesignating subsecs. (f) to (h) as (d) to (f), respectively, and striking out “and the 60-day period referred to in subsection (e)(2)(A)(ii)” in subsec. (e), as so redesignated, was executed by striking out subsec. (d) which directed President to report to Congress, because this section did not contain subsecs. (e) to (g).

PLAN FOR DEVELOPING EXASCALE COMPUTING AND INCORPORATING SUCH COMPUTING INTO THE STOCKPILE STEWARDSHIP PROGRAM

Pub. L. 113–66, div. C, title XXXI, § 3129, Dec. 26, 2013, 127 Stat. 1066, provided that:

“(a) PLAN REQUIRED.—The Administrator for Nuclear Security shall develop and carry out a plan to develop exascale computing and incorporate such computing into the stockpile stewardship program under section 4201 of the Atomic Energy Defense Act (50 U.S.C. 2521) during the 10-year period beginning on the date of the enactment of this Act [Dec. 26, 2013].

“(b) MILESTONES.—The plan required by subsection (a) shall include major programmatic milestones in—

- “(1) the development of a prototype exascale computer for the stockpile stewardship program; and
- “(2) mitigating disruptions resulting from the transition to exascale computing.

“(c) COORDINATION WITH OTHER AGENCIES.—In developing the plan required by subsection (a), the Administrator shall coordinate, as appropriate, with the Under Secretary of Energy for Science, the Secretary of Defense, and elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))).

“(d) INCLUSION OF COSTS IN FUTURE-YEARS NUCLEAR SECURITY PROGRAM.—The Administrator shall—

- “(1) address, in the estimated expenditures and proposed appropriations reflected in each future-years nuclear security program submitted under section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453) during the 10-year period beginning on the date of the enactment of this Act, the costs of—

- “(A) developing exascale computing and incorporating such computing into the stockpile stewardship program; and

- “(B) mitigating potential disruptions resulting from the transition to exascale computing; and

- “(2) include in each such future-years nuclear security program a description of the costs of efforts to develop exascale computing borne by the National Nuclear Security Administration, the Office of Science of the Department of Energy, other Federal agencies, and private industry.

“(e) SUBMISSION TO CONGRESS.—The Administrator shall submit the plan required by subsection (a) to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] with each summary of the plan required by subsection (a) of section 4203 of the Atomic Energy Defense Act (50 U.S.C. 2523) submitted under subsection (b)(1) of that section during the 10-year period beginning on the date of the enactment of this Act.

“(f) EXASCALE COMPUTING DEFINED.—In this section, the term ‘exascale computing’ means computing through the use of a computing machine that performs near or above 10 to the 18th power floating point operations per second.”

§ 2522. Stockpile stewardship criteria

(a) Requirement for criteria

The Secretary of Energy shall develop clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty that the stockpile is safe and reliable.

(b) Coordination with Secretary of Defense

The Secretary of Energy, in developing the criteria required by subsection (a), shall coordinate with the Secretary of Defense.

(Pub. L. 107–314, div. D, title XLII, § 4202, formerly Pub. L. 105–261, div. C, title XXXI, § 3158, Oct. 17, 1998, 112 Stat. 2257; Pub. L. 106–65, div. A, title X, § 1067(3), Oct. 5, 1999, 113 Stat. 774; renumbered Pub. L. 107–314, div. D, title XLII, § 4202, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(3), Nov. 24, 2003, 117 Stat. 1758; Pub. L. 111–84, div. C, title XXXI, § 3112, Oct. 28, 2009, 123 Stat. 2703; Pub. L. 112–239, div. C, title XXXI, § 3133(b)(1), (2), Jan. 2, 2013, 126 Stat. 2192.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Pub. L. 112–239, § 3133(b)(2), substituted “Stockpile stewardship criteria” for “Report on stockpile stewardship criteria” in section catchline.

Subsecs. (c), (d). Pub. L. 112–239, § 3133(b)(1), struck out subsecs. (c) and (d), which related, respectively, to report and definitions.

2009—Subsec. (c). Pub. L. 111–84, § 3112(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) required submission of report not later than Mar. 1, 2000, to Congressional committees on Department of Energy efforts to develop subsec. (a) criteria.

Subsec. (d). Pub. L. 111–84, § 3112(b), added subsec. (d).

1999—Subsec. (c). Pub. L. 106–65 substituted “Committee on Armed Services” for “Committee on National Security” before “of the House of Representatives”.

§ 2523. Nuclear weapons stockpile stewardship, management, and infrastructure plan

(a) Plan requirement

The Administrator, in consultation with the Secretary of Defense and other appropriate officials of the departments and agencies of the Federal Government, shall develop and annually update a plan for sustaining the nuclear weapons stockpile. The plan shall cover, at a minimum, stockpile stewardship, stockpile management, stockpile surveillance, program direction, infrastructure modernization, human capital, and nuclear test readiness. The plan shall be consistent with the programmatic and technical requirements of the most recent annual Nuclear Weapons Stockpile Memorandum.

(b) Submissions to Congress

(1) In accordance with subsection (c), not later than March 15 of each even-numbered year, the Administrator shall submit to the congressional defense committees a summary of the plan developed under subsection (a).

(2) In accordance with subsection (d), not later than March 15 of each odd-numbered year, the Administrator shall submit to the congressional defense committees a detailed report on the plan developed under subsection (a).

(3) The summaries and reports required by this subsection shall be submitted in unclassified form, but may include a classified annex.

(c) Elements of biennial plan summary

Each summary of the plan submitted under subsection (b)(1) shall include, at a minimum, the following:

(1) A summary of the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type.

(2) A summary of the status, plans, budgets, and schedules for warhead life extension programs and any other programs to modify, update, or replace warhead types.

(3) A summary of the methods and information used to determine that the nuclear weapons stockpile is safe and reliable, as well as the relationship of science-based tools to the collection and interpretation of such information.

(4) A summary of the status of the nuclear security enterprise, including programs and

plans for infrastructure modernization and retention of human capital, as well as associated budgets and schedules.

(5) Identification of any modifications or updates to the plan since the previous summary or detailed report was submitted under subsection (b).

(6) Such other information as the Administrator considers appropriate.

(d) Elements of biennial detailed report

Each detailed report on the plan submitted under subsection (b)(2) shall include, at a minimum, the following:

(1) With respect to stockpile stewardship and management—

(A) the status of the nuclear weapons stockpile, including the number and age of warheads (including both active and inactive) for each warhead type;

(B) for each five-year period occurring during the period beginning on the date of the report and ending on the date that is 20 years after the date of the report—

(i) the planned number of nuclear warheads (including active and inactive) for each warhead type in the nuclear weapons stockpile; and

(ii) the past and projected future total lifecycle cost of each type of nuclear weapon;

(C) the status, plans, budgets, and schedules for warhead life extension programs and any other programs to modify, update, or replace warhead types;

(D) a description of the process by which the Administrator assesses the lifetimes, and requirements for life extension or replacement, of the nuclear and non-nuclear components of the warheads (including active and inactive warheads) in the nuclear weapons stockpile;

(E) a description of the process used in recertifying the safety, security, and reliability of each warhead type in the nuclear weapons stockpile;

(F) any concerns of the Administrator that would affect the ability of the Administrator to recertify the safety, security, or reliability of warheads in the nuclear weapons stockpile (including active and inactive warheads);

(G) mechanisms to provide for the manufacture, maintenance, and modernization of each warhead type in the nuclear weapons stockpile, as needed;

(H) mechanisms to expedite the collection of information necessary for carrying out the stockpile management program required by section 2524 of this title, including information relating to the aging of materials and components, new manufacturing techniques, and the replacement or substitution of materials;

(I) mechanisms to ensure the appropriate assignment of roles and missions for each national security laboratory and nuclear weapons production facility, including mechanisms for allocation of workload, mechanisms to ensure the carrying out of appropriate modernization activities, and

mechanisms to ensure the retention of skilled personnel;

(J) mechanisms to ensure that each national security laboratory has full and complete access to all weapons data to enable a rigorous peer-review process to support the annual assessment of the condition of the nuclear weapons stockpile required under section 2525 of this title;

(K) mechanisms for allocating funds for activities under the stockpile management program required by section 2524 of this title, including allocations of funds by weapon type and facility; and

(L) for each of the five fiscal years following the fiscal year in which the report is submitted, an identification of the funds needed to carry out the program required under section 2524 of this title.

(2) With respect to science-based tools—

(A) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable;

(B) for each science-based tool used to collect information described in subparagraph (A), the relationship between such tool and such information and the effectiveness of such tool in providing such information based on the criteria developed pursuant to section 2522(a) of this title; and

(C) the criteria developed under section 2522(a) of this title (including any updates to such criteria).

(3) An assessment of the stockpile stewardship program under section 2521(a) of this title by the Administrator, in consultation with the directors of the national security laboratories, which shall set forth—

(A) an identification and description of—

(i) any key technical challenges to the stockpile stewardship program; and

(ii) the strategies to address such challenges without the use of nuclear testing;

(B) a strategy for using the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory to ensure that the nuclear weapons stockpile is safe, secure, and reliable without the use of nuclear testing;

(C) an assessment of the science-based tools (including advanced simulation and computing capabilities) of each national security laboratory that exist at the time of the assessment compared with the science-based tools expected to exist during the period covered by the future-years nuclear security program; and

(D) an assessment of the core scientific and technical competencies required to achieve the objectives of the stockpile stewardship program and other weapons activities and weapons-related activities of the Administration, including—

(i) the number of scientists, engineers, and technicians, by discipline, required to maintain such competencies; and

(ii) a description of any shortage of such individuals that exists at the time of the assessment compared with any shortage expected to exist during the period covered

by the future-years nuclear security program.

(4) With respect to the nuclear security infrastructure—

(A) a description of the modernization and refurbishment measures the Administrator determines necessary to meet the requirements prescribed in—

(i) the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 3043 of this title if such strategy has been submitted as of the date of the plan;

(ii) the most recent quadrennial defense review if such strategy has not been submitted as of the date of the plan; and

(iii) the most recent Nuclear Posture Review as of the date of the plan;

(B) a schedule for implementing the measures described under subparagraph (A) during the 10-year period following the date of the plan; and

(C) the estimated levels of annual funds the Administrator determines necessary to carry out the measures described under subparagraph (A), including a discussion of the criteria, evidence, and strategies on which such estimated levels of annual funds are based.

(5) With respect to the nuclear test readiness of the United States—

(A) an estimate of the period of time that would be necessary for the Administrator to conduct an underground test of a nuclear weapon once directed by the President to conduct such a test;

(B) a description of the level of test readiness that the Administrator, in consultation with the Secretary of Defense, determines to be appropriate;

(C) a list and description of the workforce skills and capabilities that are essential to carrying out an underground nuclear test at the Nevada National Security Site;

(D) a list and description of the infrastructure and physical plants that are essential to carrying out an underground nuclear test at the Nevada National Security Site; and

(E) an assessment of the readiness status of the skills and capabilities described in subparagraph (C) and the infrastructure and physical plants described in subparagraph (D).

(6) A strategy for the integrated management of plutonium for stockpile and stockpile stewardship needs over a 20-year period that includes the following:

(A) An assessment of the baseline science issues necessary to understand plutonium aging under static and dynamic conditions under manufactured and nonmanufactured plutonium geometries.

(B) An assessment of scientific and testing instrumentation for plutonium at elemental and bulk conditions.

(C) An assessment of manufacturing and handling technology for plutonium and plutonium components.

(D) An assessment of computational models of plutonium performance under static and dynamic loading, including manufactured and nonmanufactured conditions.

(E) An identification of any capability gaps with respect to the assessments described in subparagraphs (A) through (D).

(F) An estimate of costs relating to the issues, instrumentation, technology, and models described in subparagraphs (A) through (D) over the period covered by the future-years nuclear security program under section 2453 of this title.

(G) An estimate of the cost of eliminating the capability gaps identified under subparagraph (E) over the period covered by the future-years nuclear security program.

(H) Such other items as the Administrator considers important for the integrated management of plutonium for stockpile and stockpile stewardship needs.

(7) Identification of any modifications or updates to the plan since the previous summary or detailed report was submitted under subsection (b).

(e) Nuclear Weapons Council assessment

(1) For each detailed report on the plan submitted under subsection (b)(2), the Nuclear Weapons Council shall conduct an assessment that includes the following:

(A) An analysis of the plan, including—

(i) whether the plan supports the requirements of the national security strategy of the United States or the most recent quadrennial defense review, as applicable under subsection (d)(4)(A), and the Nuclear Posture Review; and

(ii) whether the modernization and refurbishment measures described under subparagraph (A) of subsection (d)(4) and the schedule described under subparagraph (B) of such subsection are adequate to support such requirements.

(B) An analysis of whether the plan adequately addresses the requirements for infrastructure recapitalization of the facilities of the nuclear security enterprise.

(C) If the Nuclear Weapons Council determines that the plan does not adequately support modernization and refurbishment requirements under subparagraph (A) or the nuclear security enterprise facilities infrastructure recapitalization requirements under subparagraph (B), a risk assessment with respect to—

(i) supporting the annual certification of the nuclear weapons stockpile; and

(ii) maintaining the long-term safety, security, and reliability of the nuclear weapons stockpile.

(2) Not later than 180 days after the date on which the Administrator submits the plan under subsection (b)(2), the Nuclear Weapons Council shall submit to the congressional defense committees a report detailing the assessment required under paragraph (1).

(f) Definitions

In this section:

(1) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year

that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term “future-years nuclear security program” means the program required by section 2453 of this title.

(3) The term “nuclear security budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Administrator in support of the budget for that fiscal year.

(4) The term “quadrennial defense review” means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of title 10.

(5) The term “weapons activities” means each activity within the budget category of weapons activities in the budget of the Administration.

(6) The term “weapons-related activities” means each activity under the Department of Energy that involves nuclear weapons, nuclear weapons technology, or fissile or radioactive materials, including activities related to—

- (A) nuclear nonproliferation;
- (B) nuclear forensics;
- (C) nuclear intelligence;
- (D) nuclear safety; and
- (E) nuclear incident response.

(Pub. L. 107–314, div. D, title XLII, § 4203, formerly Pub. L. 105–85, div. C, title XXXI, § 3151, Nov. 18, 1997, 111 Stat. 2041; renumbered Pub. L. 107–314, div. D, title XLII, § 4203, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(4), Nov. 24, 2003, 117 Stat. 1758; amended Pub. L. 108–375, div. C, title XXXI, § 3115, Oct. 28, 2004, 118 Stat. 2162; Pub. L. 112–239, div. C, title XXXI, § 3133(a)(1), Jan. 2, 2013, 126 Stat. 2187; Pub. L. 113–66, div. C, title XXXI, §§ 3123, 3146(a)(2)(A), Dec. 26, 2013, 127 Stat. 1061, 1072; Pub. L. 113–291, div. C, title XXXI, § 3142(c), Dec. 19, 2014, 128 Stat. 3900.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization act:

Pub. L. 104–106, div. C, title XXXI, § 3153, Feb. 10, 1996, 110 Stat. 624; repealed Pub. L. 105–85, div. C, title XXXI, § 3152(c), Nov. 18, 1997, 111 Stat. 2042.

AMENDMENTS

2014—Subsec. (d)(4)(A)(i). Pub. L. 113–291 substituted “section 3043 of this title” for “section 404a of this title”.

2013—Pub. L. 112–239 amended section generally. Prior to amendment, section related to the plan for stewardship, management, and certification of warheads in the nuclear weapons stockpile.

Subsec. (d)(6), (7). Pub. L. 113–66, § 3123, added par. (6) and redesignated former par. (6) as (7).

Subsec. (e)(1). Pub. L. 113–66, § 3146(a)(2)(A), struck out “established by section 179 of title 10” after “Council” in introductory provisions.

2004—Subsec. (c). Pub. L. 108–375 substituted “May 1 of each year thereafter” for “March 15 of each year thereafter”.

REPORT ON THE PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS AND SENSE OF CONGRESS ON FOLLOW-ON NEGOTIATIONS TO START TREATY

Pub. L. 111–84, div. A, title XII, § 1251, Oct. 28, 2009, 123 Stat. 2549, provided that:

“(a) REPORT ON THE PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS.—

“(1) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act [Oct. 28, 2009] or at the time a follow-on treaty to the Strategic Arms Reduction Treaty (START Treaty) is submitted by the President to the Senate for its advice and consent, whichever is later, the President shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report on the plan to—

“(A) enhance the safety, security, and reliability of the nuclear weapons stockpile of the United States;

“(B) modernize the nuclear weapons complex; and

“(C) maintain the delivery platforms for nuclear weapons.

“(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

“(A) A description of the plan to enhance the safety, security, and reliability of the nuclear weapons stockpile of the United States.

“(B) A description of the plan to modernize the nuclear weapons complex, including improving the safety of facilities, modernizing the infrastructure, and maintaining the key capabilities and competencies of the nuclear weapons workforce, including designers and technicians.

“(C) A description of the plan to maintain delivery platforms for nuclear weapons.

“(D) An estimate of budget requirements, including the costs associated with the plans outlined under subparagraphs (A) through (C), over a 10-year period.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the President should maintain the stated position of the United States that the follow-on treaty to the START Treaty not include any limitations on the ballistic missile defense systems, space capabilities, or advanced conventional weapons systems of the United States;

“(2) the enhanced safety, security, and reliability of the nuclear weapons stockpile, modernization of the nuclear weapons complex, and maintenance of the nuclear delivery systems are key to enabling further reductions in the nuclear forces of the United States; and

“(3) the President should submit budget requests for fiscal year 2011 and subsequent fiscal years for the programs of the National Nuclear Security Administration of the Department of Energy that are adequate to sustain the needed capabilities to support the long-term maintenance of the nuclear stockpile of the United States.”

INCLUSION IN 2005 STOCKPILE STEWARDSHIP PLAN OF CERTAIN INFORMATION RELATING TO STOCKPILE STEWARDSHIP CRITERIA

Pub. L. 108–136, div. C, title XXXI, § 3133, Nov. 24, 2003, 117 Stat. 1751, provided that:

“(a) INCLUSION IN 2005 STOCKPILE STEWARDSHIP PLAN.—In submitting to Congress the updated version of the 2005 stockpile stewardship plan, the Secretary of Energy shall include the matters specified in subsection (b).

“(b) MATTERS INCLUDED.—The matters referred to in subsection (a) are the following:

“(1) An update of any information or criteria described in the report on stockpile stewardship criteria submitted under section 4202 of the Atomic Energy Defense Act [50 U.S.C. 2522] (as transferred and redesignated by section 3161(e)(3) [probably should be “3141(e)(3)”] of this Act).

“(2) A description of any additional information identified, or criteria established, on matters covered by such section 4202 during the period beginning on the date of the submittal of the report under such section 4202 and ending on the date of the submittal of the updated version of the plan under subsection (a) of this section.

“(3) For each science-based tool developed by the Department of Energy during such period—

“(A) a description of the relationship of such science-based tool to the collection of information needed to determine that the nuclear weapons stockpile is safe and reliable; and

“(B) a description of the criteria for judging whether or not such science-based tool provides for the collection of such information.

“(c) 2005 STOCKPILE STEWARDSHIP PLAN DEFINED.—In this section, the term ‘2005 stockpile stewardship plan’ means the updated version of the plan for maintaining the nuclear weapons stockpile developed under section 4203 of the Atomic Energy Defense Act [50 U.S.C. 2523] (as transferred and redesignated by section 3161(e)(4) [probably should be “3141(e)(4)”] of this Act) that is required to be submitted to Congress not later than March 15, 2005.”

ANNUAL UPDATE TO THE REPORT SPECIFIED IN SECTION 1251 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010 (PUBLIC LAW 111-84)

Memorandum of President of the United States, Feb. 7, 2011, 76 F.R. 7477, provided:

Memorandum for the Secretary of Defense [and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the Secretaries of Defense and Energy to jointly provide annual updates to the report specified in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) (the “1251 Report”) [set out as a note above]. I further authorize and direct the Secretaries of Defense and Energy to jointly submit this annual update to the 1251 Report concurrently with the President’s budget each year, beginning in calendar year 2011.

The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 2523a. Repealed. Pub. L. 112-239, div. C, title XXXI, § 3133(c)(1), Jan. 2, 2013, 126 Stat. 2192

Section, Pub. L. 107-314, div. D, title XLII, § 4203A, as added Pub. L. 111-383, div. C, title XXXI, § 3112(a), Jan. 7, 2011, 124 Stat. 4507, related to biennial plan on modernization and refurbishment of the nuclear security complex.

§ 2523b. Transferred

CODIFICATION

Section, Pub. L. 112-81, div. A, title X, § 1045, Dec. 31, 2011, 125 Stat. 1577; Pub. L. 112-239, div. A, title X, § 1076(a)(19), Jan. 2, 2013, 126 Stat. 1949, which related to nuclear force reductions, was transferred to section 494 of Title 10, Armed Forces, by Pub. L. 112-239, div. A, title X, § 1033(b)(1)(A)–(C), Jan. 2, 2013, 126 Stat. 1920.

§ 2523c. Major warhead refurbishment program

In fiscal year 2015 and subsequent fiscal years, the Secretary of Energy shall submit to the con-

gressional defense committees (as defined in U.S.C. 101(a)(16))¹ a report, on each major warhead refurbishment program that reaches the Phase 6.3 milestone, that provides an analysis of alternatives. Such report shall include—

(1) a full description of alternatives considered prior to the award of Phase 6.3;

(2) a comparison of the costs and benefits of each of those alternatives, to include an analysis of trade-offs among cost, schedule, and performance objectives against each alternative considered;

(3) identification of the cost and risk of critical technology elements associated with each alternative, including technology maturity, integration risk, manufacturing feasibility, and demonstration needs;

(4) identification of the cost and risk of additional capital asset and infrastructure capabilities required to support production and certification of each alternative;

(5) a comparative analysis of the risks, costs, and scheduling needs for any military requirement intended to enhance warhead safety, security, or maintainability, including any requirement to consolidate and/or integrate warhead systems or mods as compared to at least one other feasible refurbishment alternative the Nuclear Weapons Council considers appropriate; and

(6) a life-cycle cost estimate for the alternative selected that details the overall cost, scope, and schedule planning assumptions.

(Pub. L. 113-235, div. D, title III, § 308, Dec. 16, 2014, 128 Stat. 2324.)

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Atomic Energy Defense Act which comprises this chapter.

§ 2524. Stockpile management program

(a) Program required

The Secretary of Energy, acting through the Administrator and in consultation with the Secretary of Defense, shall carry out a program, in support of the stockpile stewardship program, to provide for the effective management of the weapons in the nuclear weapons stockpile, including the extension of the effective life of such weapons. The program shall have the following objectives:

(1) To increase the reliability, safety, and security of the nuclear weapons stockpile of the United States.

(2) To further reduce the likelihood of the resumption of underground nuclear weapons testing.

(3) To achieve reductions in the future size of the nuclear weapons stockpile.

(4) To reduce the risk of an accidental detonation of an element of the stockpile.

(5) To reduce the risk of an element of the stockpile being used by a person or entity hostile to the United States, its vital interests, or its allies.

¹ So in original. Probably should be “10 U.S.C. 101(a)(16)”.

(b) Program limitations

In carrying out the stockpile management program under subsection (a), the Secretary of Energy shall ensure that—

(1) any changes made to the stockpile shall be made to achieve the objectives identified in subsection (a); and

(2) any such changes made to the stockpile shall—

(A) remain consistent with basic design parameters by including, to the maximum extent feasible, components that are well understood or are certifiable without the need to resume underground nuclear weapons testing; and

(B) use the design, certification, and production expertise resident in the nuclear security enterprise to fulfill current mission requirements of the existing stockpile.

(c) Program budget

In accordance with the requirements under section 2529 of this title, for each budget submitted by the President to Congress under section 1105 of title 31, the amounts requested for the program under this section shall be clearly identified in the budget justification materials submitted to Congress in support of that budget.

(Pub. L. 107-314, div. D, title XLII, § 4204, formerly Pub. L. 106-65, div. C, title XXXI, § 3133, Oct. 5, 1999, 113 Stat. 926; renumbered Pub. L. 107-314, div. D, title XLII, § 4204, and amended Pub. L. 108-136, div. C, title XXXI, §§ 3111, 3141(e)(5), Nov. 24, 2003, 117 Stat. 1743, 1758; Pub. L. 111-84, div. C, title XXXI, § 3113(a)(2), Oct. 28, 2009, 123 Stat. 2704; Pub. L. 112-239, div. C, title XXXI, § 3133(d), Jan. 2, 2013, 126 Stat. 2192; Pub. L. 113-66, div. C, title XXXI, § 3146(c)(2), Dec. 26, 2013, 127 Stat. 1073.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-66 struck out “for Nuclear Security” after “Administrator” in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 112-239, § 3133(d)(1), substituted “nuclear security enterprise” for “nuclear complex”.

Subsecs. (c) to (e). Pub. L. 112-239, § 3133(d)(2), (3), redesignated subsec. (e) as (c) and struck out former subsecs. (c) and (d), which related, respectively, to program plan and annual updates.

2009—Pub. L. 111-84 amended section generally. Prior to amendment, section related to the nuclear weapons stockpile life extension program.

2003—Subsec. (c). Pub. L. 108-136, § 3111, struck out subsec. (c), which related to a plan for the extension of the effective life of the weapons in the nuclear weapons stockpile.

Subsec. (c)(1). Pub. L. 108-136, § 3141(e)(5)(D), substituted “October 5, 1999” for “the date of the enactment of this Act”.

Subsecs. (d) to (f). Pub. L. 108-136, § 3111, struck out subsecs. (d) to (f). Prior to amendment, subsec. (d) required submittal to committees of the House and Senate of a plan for the extension of the effective life of the weapons in the nuclear weapons stockpile and annual updates of the plan, subsec. (e) required a GAO assessment of the plan and updates, and subsec. (f) stated the sense of Congress regarding funding of the program under subsec. (a).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. C, title XXXI, § 3111, Nov. 24, 2003, 117 Stat. 1743, provided that the amendment made by section 3111 is effective December 31, 2004.

§ 2524a. Repealed. Pub. L. 111-84, div. C, title XXXI, § 3113(a)(1), Oct. 28, 2009, 123 Stat. 2704

Section, Pub. L. 107-314, div. D, title XLII, § 4204A, formerly § 4204a, as added Pub. L. 109-163, div. C, title XXXI, § 3111(a), Jan. 6, 2006, 119 Stat. 3539; renumbered § 4204A, Pub. L. 110-181, div. C, title XXXI, § 3117(1), Jan. 28, 2008, 122 Stat. 578, related to the Reliable Replacement Warhead program.

§ 2525. Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile**(a) Annual assessments required**

For each nuclear weapon type in the stockpile of the United States, each official specified in subsection (b) on an annual basis shall, to the extent such official is directly responsible for the safety, reliability, performance, or military effectiveness of that nuclear weapon type, complete an assessment of the safety, reliability, performance, or military effectiveness (as the case may be) of that nuclear weapon type.

(b) Covered officials

The officials referred to in subsection (a) are the following:

(1) The head of each national security laboratory.

(2) The Commander of the United States Strategic Command.

(c) Dual validation teams in support of assessments

In support of the assessments required by subsection (a), the Administrator may establish teams, known as “dual validation teams”, to provide each national security laboratory responsible for weapons design with independent evaluations of the condition of each warhead for which such laboratory has lead responsibility. A dual validation team established by the Administrator shall—

(1) be comprised of weapons experts from the laboratory that does not have lead responsibility for fielding the warhead being evaluated;

(2) have access to all surveillance and underground test data for all stockpile systems for use in the independent evaluations;

(3) use all relevant available data to conduct independent calculations; and

(4) pursue independent experiments to support the independent evaluations.

(d) Use of teams of experts for assessments

The head of each national security laboratory shall establish and use one or more teams of experts, known as “red teams”, to assist in the assessments required by subsection (a). Each such team shall include experts from both of the other national security laboratories. Each such team for a national security laboratory shall—

(1) review both the matters covered by the assessments under subsection (a) performed by the head of that laboratory and any independent evaluations conducted by a dual validation team under subsection (c);

- (2) subject such matters to challenge; and
- (3) submit the results of such review and challenge, together with the findings and recommendations of such team with respect to such review and challenge, to the head of that laboratory.

(e) Report on assessments

Not later than December 1 of each year, each official specified in subsection (b) shall submit to the Secretary concerned, and to the Nuclear Weapons Council, a report on the assessments that such official was required by subsection (a) to complete. The report shall include the following:

- (1) The results of each such assessment.
- (2)(A) Such official's determination as to whether or not one or more underground nuclear tests are necessary to resolve any issues identified in the assessments and, if so—
 - (i) an identification of the specific underground nuclear tests that are necessary to resolve such issues; and
 - (ii) a discussion of why options other than an underground nuclear test are not available or would not resolve such issues.

(B) An identification of the specific underground nuclear tests which, while not necessary, might have value in resolving any such issues and a discussion of the anticipated value of conducting such tests.

(C) Such official's determination as to the readiness of the United States to conduct the underground nuclear tests identified under subparagraphs (A)(i) and (B), if directed by the President to do so.

(3) In the case of a report submitted by the head of a national security laboratory—

(A) a concise statement regarding the adequacy of the science-based tools and methods being used to determine the matters covered by the assessments;

(B) a concise statement regarding the adequacy of the tools and methods employed by the manufacturing infrastructure required by section 2532 of this title to identify and fix any inadequacy with respect to the matters covered by the assessments;

(C) a concise summary of the findings and recommendations of any teams under subsection (d) that relate to the assessments, together with a discussion of those findings and recommendations;

(D) a concise summary of the results of any independent evaluation conducted by a dual validation team under subsection (c); and

(E) a concise summary of any significant finding investigations initiated or active during the previous year for which the head of the national security laboratory has full or partial responsibility.

(4) In the case of a report submitted by the Commander of the United States Strategic Command—

(A) a discussion of the relative merits of other nuclear weapon types (if any), or compensatory measures (if any) that could be taken, that could enable accomplishment of the missions of the nuclear weapon types to

which the assessments relate, should such assessments identify any deficiency with respect to such nuclear weapon types; and

(B) a summary of all major assembly releases in place as of the date of the report for the active and inactive nuclear weapon stockpiles.

(5) An identification and discussion of any matter having an adverse effect on the capability of the official submitting the report to accurately determine the matters covered by the assessments.

(f) Submittals to the President and Congress

(1) Not later than February 1 of each year, the Secretary of Defense and the Secretary of Energy shall submit to the President—

(A) each report, without change, submitted to either Secretary under subsection (e) during the preceding year;

(B) any comments that the Secretaries individually or jointly consider appropriate with respect to each such report;

(C) the conclusions that the Secretaries individually or jointly reach as to the safety, reliability, performance, and military effectiveness of the nuclear weapons stockpile of the United States; and

(D) any other information that the Secretaries individually or jointly consider appropriate.

(2) Not later than March 15 of each year, the President shall forward to Congress the matters received by the President under paragraph (1) for that year, together with any comments the President considers appropriate.

(3) If the President does not forward to Congress the matters required under paragraph (2) by the date required by such paragraph, the officials specified in subsection (b) shall provide a briefing to the congressional defense committees not later than March 30 on the report such officials submitted to the Secretary concerned under subsection (e).

(g) Classified form

Each submittal under subsection (f) shall be in classified form only, with the classification level required for each portion of such submittal marked appropriately.

(h) Definition

In this section, the term “Secretary concerned” means—

(1) the Secretary of Energy, with respect to matters concerning the Department of Energy; and

(2) the Secretary of Defense, with respect to matters concerning the Department of Defense.

(Pub. L. 107-314, div. D, title XLII, §4205, formerly div. C, title XXXI, §3141, Dec. 2, 2002, 116 Stat. 2730; renumbered div. D, title XLII, §4205, and amended Pub. L. 108-136, div. C, title XXXI, §3141(e)(6), Nov. 24, 2003, 117 Stat. 1759; Pub. L. 111-84, div. C, title XXXI, §3114(a)(2)-(d), Oct. 28, 2009, 123 Stat. 2706, 2707; Pub. L. 112-239, div. C, title XXXI, §3131(c), Jan. 2, 2013, 126 Stat. 2180; Pub. L. 113-66, div. C, title XXXI, §3122, 3146(c)(3), Dec. 26, 2013, 127 Stat. 1061, 1074; Pub. L. 113-291, div. C, title XXXI, §3142(d), Dec. 19, 2014, 128 Stat. 3900.)

CODIFICATION

Section was formerly classified to section 7274s of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (b)(2). Pub. L. 113-291 substituted “Commander” for “commander”.

2013—Subsec. (c). Pub. L. 113-66, § 3146(c)(3)(A), struck out “for Nuclear Security” before “may establish teams,” in introductory provisions.

Subsec. (e)(3)(E). Pub. L. 113-66, § 3122(a)(1), added subpar. (E).

Subsec. (e)(4). Pub. L. 113-66, § 3122(a)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “In the case of a report submitted by the Commander of the United States Strategic Command, a discussion of the relative merits of other nuclear weapon types (if any), or compensatory measures (if any) that could be taken, that could enable accomplishment of the missions of the nuclear weapon types to which the assessments relate, should such assessments identify any deficiency with respect to such nuclear weapon types.”

Subsec. (f)(1). Pub. L. 113-66, § 3122(b)(1), substituted “February 1” for “March 1” in introductory provisions.

Subsec. (f)(3). Pub. L. 113-66, § 3122(b)(2), added par. (3).

Subsec. (h). Pub. L. 113-66, § 3146(c)(3)(B), in heading, substituted “Definition” for “Definitions” and, in text, substituted “section, the term” for “section:”, struck out par. (1) which defined “national security laboratory”, struck out par. (2) designation and “The term” before “Secretary concerned”, redesignated subpars. (A) and (B) of former par. (2) as pars. (1) and (2), respectively, and realigned margins.

Subsec. (i). Pub. L. 112-239 struck out subsec. (i) which related to first submissions under subsecs. (e) and (f).

2009—Subsec. (c). Pub. L. 111-84, § 3114(a)(2)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 111-84, § 3114(a)(2)(A), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 111-84, § 3114(b), inserted “both” after “review” and “and any independent evaluations conducted by a dual validation team under subsection (c)” after “that laboratory”.

Subsec. (e). Pub. L. 111-84, § 3114(a)(2)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(3)(C). Pub. L. 111-84, § 3114(d)(1), substituted “subsection (d)” for “subsection (c)”.

Subsec. (e)(3)(D). Pub. L. 111-84, § 3114(c), added subpar. (D).

Subsec. (f). Pub. L. 111-84, § 3114(a)(2)(A), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1)(A). Pub. L. 111-84, § 3114(d)(2), substituted “subsection (e)” for “subsection (d)”.

Subsec. (g). Pub. L. 111-84, § 3114(d)(3), substituted “subsection (f)” for “subsection (e)”.

Pub. L. 111-84, § 3114(a)(2)(A), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 111-84, § 3114(a)(2)(A), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 111-84, § 3114(a)(2)(A), redesignated subsec. (h) as (i).

Subsec. (i)(1). Pub. L. 111-84, § 3114(d)(4)(A), substituted “subsection (e)” for “subsection (d)”.

Subsec. (i)(2). Pub. L. 111-84, § 3114(d)(4)(B), substituted “subsection (f)” for “subsection (e)”.

2003—Subsec. (d)(3)(B). Pub. L. 108-136, § 3141(e)(6)(D), substituted “section 2532 of this title” for “section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (42 U.S.C. 2121 note)”.

§ 2526. Form of certifications regarding the safety or reliability of the nuclear weapons stockpile

Any certification submitted to the President by the Secretary of Defense or the Secretary of

Energy regarding confidence in the safety or reliability of a nuclear weapon type in the United States nuclear weapons stockpile shall be submitted in classified form only.

(Pub. L. 107-314, div. D, title XLII, § 4206, formerly Pub. L. 106-398, § 1 [div. C, title XXXI, § 3194], Oct. 30, 2000, 114 Stat. 1654, 1654A-481; renumbered Pub. L. 107-314, div. D, title XLII, § 4206, by Pub. L. 108-136, div. C, title XXXI, § 3141(e)(7), Nov. 24, 2003, 117 Stat. 1759.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

§ 2527. Nuclear test ban readiness program

(a) Establishment of program

The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Russian Federation.

(b) Purposes of program

The purposes of the program under subsection (a) shall be the following:

(1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify potential problems in stockpile reliability and safety in existing designs of nuclear weapons.

(2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.

(3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold or comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects.

(c) Conduct of program

The Secretary of Energy shall carry out the program provided for in subsection (a). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national security laboratories.

(Pub. L. 107-314, div. D, title XLII, § 4207, formerly Pub. L. 100-456, div. A, title XIV, § 1436, Sept. 29, 1988, 102 Stat. 2075; Pub. L. 105-85, div. C, title XXXI, § 3152(i), Nov. 18, 1997, 111 Stat. 2042; renumbered Pub. L. 107-314, div. D, title

XLII, § 4207, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(e)(8), Nov. 24, 2003, 117 Stat. 1759; Pub. L. 113-66, div. C, title XXXI, § 3146(c)(4), Dec. 26, 2013, 127 Stat. 1074.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-66, § 3146(c)(4)(A)–(C), redesignated subsec. (b) as (a), substituted “Russian Federation” for “Soviet Union”, and struck out former subsec. (a) which related to congressional findings regarding negotiations between the United States and the Soviet Union on nuclear test ban verification measures.

Subsec. (b). Pub. L. 113-66, § 3146(c)(4)(B), (D), redesignated subsec. (c) as (b) and substituted “subsection (a)” for “subsection (b)” in introductory provisions. Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 113-66, § 3146(c)(4)(B), (E), redesignated subsec. (d) as (c) and substituted “subsection (a)” for “subsection (b)” and “national security laboratories” for “national nuclear weapons laboratories”. Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 113-66, § 3146(c)(4)(B), redesignated subsec. (d) as (c).

2003—Pub. L. 108-136, § 3141(e)(8)(D), made technical amendment to section catchline.

1997—Subsec. (e). Pub. L. 105-85 struck out heading and text of subsec. (e). Text read as follows: “The Secretary of Energy shall submit to Congress each year an unclassified report (with a classified annex as necessary) that describes the progress made to the date of the report in achieving the purposes of the program required to be established under subsection (b).”

§ 2528. Repealed. Pub. L. 112-239, div. C, title XXXI, § 3133(e)(1)(A), (2), Jan. 2, 2013, 126 Stat. 2192, 2193

Section, Pub. L. 107-314, div. D, title XLII, § 4208, formerly Pub. L. 104-106, div. C, title XXXI, § 3152, Feb. 10, 1996, 110 Stat. 623; Pub. L. 106-398, § 1 [div. C, title XXXI, § 3192], Oct. 30, 2000, 114 Stat. 1654, 1654A-480; renumbered Pub. L. 107-314, div. D, title XLII, § 4208, by Pub. L. 108-136, div. C, title XXXI, § 3141(e)(9), Nov. 24, 2003, 117 Stat. 1759; Pub. L. 110-181, div. C, title XXXI, § 3112(b)(1), Jan. 28, 2008, 122 Stat. 577, required the Secretary of Energy to submit to Congress in odd-numbered years reports on the nuclear test readiness of the United States.

CODIFICATION

Section 3133(e)(1)(A) of Pub. L. 112-239 repealed section 4208 of Pub. L. 107-314, which was classified to this section. Section 3133(e)(2) of Pub. L. 112-239 repealed section 3152 of Pub. L. 104-106, which was transferred and redesignated as section 4208 of Pub. L. 107-314, and section 3133(e)(2) is treated as also repealing this section, to reflect the probable intent of Congress.

§ 2528a. Repealed. Pub. L. 110-181, div. C, title XXXI, § 3112(a), Jan. 28, 2008, 122 Stat. 577

Section, Pub. L. 108-136, div. C, title XXXI, § 3113, Nov. 24, 2003, 117 Stat. 1743, related to readiness posture for resumption by the United States of underground nuclear weapons tests.

§ 2529. Requirements for specific request for new or modified nuclear weapons

(a) Requirement for request for funds for development

(1) In any fiscal year after fiscal year 2002 in which the Secretary of Energy plans to carry

out activities described in paragraph (2) relating to the development of a new nuclear weapon or modified nuclear weapon, the Secretary shall specifically request funds for such activities in the budget of the President for that fiscal year under section 1105(a) of title 31.

(2) The activities described in this paragraph are as follows:

(A) The conduct, or provision for conduct, of research and development which could lead to the production of a new nuclear weapon by the United States.

(B) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a new nuclear weapon by the United States.

(C) The conduct, or provision for conduct, of research and development which could lead to the production of a modified nuclear weapon by the United States.

(D) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a modified nuclear weapon by the United States.

(b) Budget request format

The Secretary shall include in a request for funds under subsection (a) the following:

(1) In the case of funds for activities described in subparagraph (A) or (C) of subsection (a)(2), a single dedicated line item for all such activities for new nuclear weapons or modified nuclear weapons that are in phase 1, 2, or 2A or phase 6.1, 6.2, or 6.2A (as the case may be), or any concept work prior to phase 1 or 6.1 (as the case may be), of the nuclear weapons acquisition process.

(2) In the case of funds for activities described in subparagraph (B) or (D) of subsection (a)(2), a dedicated line item for each such activity for a new nuclear weapon or modified nuclear weapon that is in phase 3 or higher or phase 6.3 or higher (as the case may be) of the nuclear weapons acquisition process.

(c) Exception

Subsection (a) shall not apply to funds for purposes of conducting, or providing for the conduct of, research and development, or manufacturing and engineering, determined by the Secretary to be necessary to address proliferation concerns.

(d) Definitions

In this section:

(1) The term “modified nuclear weapon” means a nuclear weapon that contains a pit or canned subassembly, either of which—

(A) is in the nuclear weapons stockpile as of December 2, 2002; and

(B) is being modified in order to meet a military requirement that is other than the military requirements applicable to such nuclear weapon when first placed in the nuclear weapons stockpile.

(2) The term “new nuclear weapon” means a nuclear weapon that contains a pit or canned subassembly, either of which is neither—

(A) in the nuclear weapons stockpile on December 2, 2002; nor

(B) in production as of that date.

(Pub. L. 107-314, div. D, title XLII, § 4209, formerly div. C, title XXXI, § 3143, Dec. 2, 2002, 116

Stat. 2733; renumbered div. D, title XLII, § 4209, by Pub. L. 108-136, div. C, title XXXI, § 3141(e)(10), Nov. 24, 2003, 117 Stat. 1759; Pub. L. 111-84, div. C, title XXXI, § 3115, Oct. 28, 2009, 123 Stat. 2707; Pub. L. 113-66, div. C, title XXXI, § 3146(c)(5), Dec. 26, 2013, 127 Stat. 1074.)

CODIFICATION

Section was formerly classified to section 7271d of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (d). Pub. L. 113-66 made technical amendment to reference in original act which appears in text as reference to “December 2, 2002” in two places.

2009—Subsec. (c). Pub. L. 111-84, § 3115(1), substituted “necessary to address proliferation concerns.” for “necessary—

“(1) for the nuclear weapons life extension program;

“(2) to modify an existing nuclear weapon solely to address safety or reliability concerns; or

“(3) to address proliferation concerns.”

Subsec. (d). Pub. L. 111-84, § 3115(2), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1), which read as follows: “The term ‘life extension program’ means the program to repair or replace non-nuclear components, or to modify the pit or canned subassembly, of nuclear weapons that are in the nuclear weapons stockpile on December 2, 2002, in order to assure that such nuclear weapons retain the ability to meet the military requirements applicable to such nuclear weapons when first placed in the nuclear weapons stockpile.”

LIMITATION ON DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS

Pub. L. 108-136, div. C, title XXXI, § 3116(c), Nov. 24, 2003, 117 Stat. 1746, provided that: “The Secretary of Energy may not commence the engineering development phase, or any subsequent phase, of a low-yield nuclear weapon unless specifically authorized by Congress.”

§ 2530. Testing of nuclear weapons

(a) Underground testing

No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(b) Atmospheric testing

None of the funds appropriated pursuant to the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1547) or any other Act for any fiscal year may be available to maintain the capability of the United States to conduct atmospheric testing of a nuclear weapon.

(Pub. L. 107-314, div. D, title XLII, § 4210, formerly Pub. L. 102-377, title V, § 507(f), Oct. 2, 1992, 106 Stat. 1345; renumbered Pub. L. 107-314, div. D, title XLII, § 4210, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(e)(11), Nov. 24, 2003, 117 Stat. 1760; Pub. L. 112-239, div. C, title XXXI, § 3131(d)(1), Jan. 2, 2013, 126 Stat. 2180.)

REFERENCES IN TEXT

The National Defense Authorization Act for Fiscal Year 1994, referred to in subsec. (b), is Pub. L. 103-160, Nov. 30, 1993, 107 Stat. 1547. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly set out in a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

Pub. L. 108-136, div. C, title XXXI, § 3141(e)(11), Nov. 24, 2003, 117 Stat. 1760, which directed the transfer to this section of section 507(f) of the Energy and Water Development Appropriations Act, 1993, “(Public Law 102-337; 106 Stat. 1345)”, was executed by transferring section 507(f) of Pub. L. 102-377 to this section, to reflect the probable intent of Congress.

AMENDMENTS

2013—Pub. L. 112-239 amended section generally. Prior to amendment, text read as follows: “No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.”

2003—Pub. L. 108-136, § 3141(e)(11)(C)(i), inserted section catchline.

§ 2531. Repealed. Pub. L. 112-239, div. C, title XXXI, § 3131(d)(3), Jan. 2, 2013, 126 Stat. 2181

Section, Pub. L. 107-314, div. D, title XLII, § 4211, formerly Pub. L. 103-160, div. C, title XXXI, § 3137, Nov. 30, 1993, 107 Stat. 1946; renumbered Pub. L. 107-314, div. D, title XLII, § 4211, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(e)(12), Nov. 24, 2003, 117 Stat. 1760, provided for availability of funds for maintaining the technical capability to resume underground nuclear testing at the Nevada Test Site.

§ 2532. Manufacturing infrastructure for refabrication and certification of nuclear weapons stockpile

(a) Manufacturing program

(1) The Secretary of Energy shall carry out a program for purposes of establishing within the Government a manufacturing infrastructure that has the capabilities of meeting the following objectives as specified in the Nuclear Posture Review:

(A) To provide a stockpile surveillance engineering base.

(B) To refabricate and certify weapon components and types in the enduring nuclear weapons stockpile, as necessary.

(C) To fabricate and certify new nuclear warheads, as necessary.

(D) To support nuclear weapons.

(E) To supply sufficient tritium in support of nuclear weapons to ensure an upload hedge in the event circumstances require.

(2) The purpose of the program carried out under paragraph (1) shall also be to develop manufacturing capabilities and capacities necessary to meet the requirements specified in the annual Nuclear Weapons Stockpile Memorandum.

(b) Required capabilities

The manufacturing infrastructure established under the program under subsection (a) shall include the following capabilities (modernized to attain the objectives referred to in that subsection):

(1) The weapons assembly capabilities of the Pantex Plant.

(2) The weapon secondary fabrication capabilities of the Y-12 Plant, Oak Ridge, Tennessee.

(3) The capabilities of the Savannah River Site relating to tritium recycling and fissile materials components processing and fabrication.

(4) The non-nuclear component capabilities of the Kansas City Plant.

(c) Nuclear Posture Review

For purposes of subsection (a), the term “Nuclear Posture Review” means the Department of Defense Nuclear Posture Review as contained in the Report of the Secretary of Defense to the President and Congress dated February 19, 1995, or subsequent such reports.

(Pub. L. 107–314, div. D, title XLII, § 4212, formerly Pub. L. 104–106, div. C, title XXXI, § 3137, Feb. 10, 1996, 110 Stat. 620; Pub. L. 104–201, div. C, title XXXI, § 3132(a), (b), Sept. 23, 1996, 110 Stat. 2829; renumbered Pub. L. 107–314, div. D, title XLII, § 4212, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(e)(13), Nov. 24, 2003, 117 Stat. 1760; Pub. L. 112–239, div. C, title XXXI, § 3131(e), Jan. 2, 2013, 126 Stat. 2181; Pub. L. 113–66, div. C, title XXXI, § 3146(c)(6), Dec. 26, 2013, 127 Stat. 1074.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Subsec. (a)(2). Pub. L. 113–66, § 3146(c)(6)(A), substituted “Memorandum” for “Review”.

Subsec. (c). Pub. L. 113–66, § 3146(c)(6)(B), substituted “Congress” for “the Congress”.

Subsecs. (d), (e). Pub. L. 112–239 struck out subsecs. (d) and (e), which related, respectively, to funding and submission to Congress by Secretary of plans and reports.

2003—Subsec. (d). Pub. L. 108–136, § 3141(e)(13)(D), inserted “of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)” after “section 3101(b)”.

1996—Subsec. (a). Pub. L. 104–201, § 3132(a), designated existing provisions as par. (1), redesignated former pars. (1) to (5) as subpars. (A) to (E), respectively, and added par. (2).

Subsec. (b)(3). Pub. L. 104–201, § 3132(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The tritium production, recycling, and other weapons-related capabilities of the Savannah River Site.”

§ 2533. Reports on critical difficulties at national security laboratories and nuclear weapons production facilities

(a) Reports by heads of laboratories and facilities

In the event of a difficulty at a national security laboratory or a nuclear weapons production facility that has a significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, the head of the laboratory or facility, as the case may be, shall submit to the Administrator a report on the difficulty. The head of the laboratory or facility shall submit the report as soon as practicable after discovery of the difficulty.

(b) Transmittal by Administrator

Not later than 10 days after receipt of a report under subsection (a), the Administrator shall

transmit the report (together with the comments of the Administrator) to the congressional defense committees, to the Secretary of Energy and the Secretary of Defense, and to the President.

(c) Omitted

(d) Inclusion of reports in annual stockpile assessment

Any report submitted pursuant to subsection (a) shall also be submitted to the President and Congress with the matters required to be submitted under section 2525(f) of this title for the year in which such report is submitted.

(Pub. L. 107–314, div. D, title XLII, § 4213, formerly Pub. L. 104–201, div. C, title XXXI, § 3159, Sept. 23, 1996, 110 Stat. 2842, § 4218(b), (c), formerly Pub. L. 105–85, div. A, title XIII, § 1305(c), (d), Nov. 18, 1997, 111 Stat. 1954; Pub. L. 106–65, div. C, title XXXI, § 3163(f), Oct. 5, 1999, 113 Stat. 946; renumbered Pub. L. 107–314, div. D, title XLII, § 4213, by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(14), Nov. 24, 2003, 117 Stat. 1760; renumbered Pub. L. 107–314, div. D, title XLII, § 4218(c), (d), and amended Pub. L. 112–239, div. C, title XXXI, §§ 3131(f)(1), 3164(a)(3), Jan. 2, 2013, 126 Stat. 2181, 2206; renumbered Pub. L. 107–314, div. D, title XLII, § 4218(b), (c), and amended Pub. L. 113–66, div. C, title XXXI, § 3146(c)(7), (10)(B), Dec. 26, 2013, 127 Stat. 1074, 1075.)

CODIFICATION

Section was formerly classified to section 7274o of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

Section is comprised in part of section 4213 of Pub. L. 107–314. See note below. Subsec. (c) of section 4213 of Pub. L. 107–314 amended section 179 of Title 10, Armed Forces.

Section is comprised of sections 4213 and 4218(b), (c) of Pub. L. 107–314. Section 4213, which was formerly part of Pub. L. 104–201, originally enacted this section, and section 4218(b), (c), which was formerly part of Pub. L. 105–85, originally amended this section. Both sections were renumbered to become part of Pub. L. 107–314 and, as a result, are shown in the source credit above as jointly comprising this section.

AMENDMENTS

2013—Pub. L. 113–66, § 3146(c)(10)(B), renumbered Pub. L. 107–314, § 4218(c), (d), as § 4218(b), (c). See 1997 Amendment note below.

Pub. L. 112–239, § 3164(a)(3), renumbered Pub. L. 105–85, § 1305(c), (d), as Pub. L. 107–314, § 4218(c), (d). See 1997 Amendment note below.

Pub. L. 112–239, § 3131(f)(1)(A), substituted “national security laboratories and nuclear weapons production facilities” for “nuclear weapons laboratories and nuclear weapons production plants” in section catchline.

Subsec. (a). Pub. L. 113–66, § 3146(c)(7)(A), substituted “facilities” for “plants” in heading and “laboratory or facility” for “laboratory or plant” in two places in text.

Pub. L. 112–239, § 3131(f)(1)(B), in first sentence, substituted “national security laboratory” for “nuclear weapons laboratory”, “production facility” for “production plant”, and “Administrator” for “Assistant Secretary of Energy for Defense Programs”.

Subsec. (b). Pub. L. 112–239, § 3131(f)(1)(C), substituted “Administrator” for “Assistant Secretary” in heading and in two places in text.

Subsec. (d). Pub. L. 113–66, § 3146(c)(7)(B), substituted “assessment” for “certification” in heading and “submitted to the President and Congress with the matters required to be submitted under section 2525(f) of this

title” for “included with the decision documents that accompany the annual certification of the safety and reliability of the United States nuclear weapons stockpile which is provided to the President” in text.

Subsec. (e). Pub. L. 112-239, §3131(f)(1)(D), struck out subsec. (e), which defined terms “nuclear weapons laboratory” and “nuclear weapons production plant”.

1999—Subsecs. (d), (e). Pub. L. 106-65 added subsec. (d) and redesignated former subsec. (d) as (e).

1997—Subsec. (b). Pub. L. 107-314, §4218(b), (c), formerly §4218(c), (d), formerly Pub. L. 105-85, §1305(c), (d), substituted “Not later than 10 days” for “As soon as practicable” and “committees,” for “committees and” and inserted before period at end “, and to the President”.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, see sections 183(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

All national security functions and activities performed immediately before Oct. 5, 1999, by nuclear weapons laboratories and production facilities defined in this section, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of this title.

§ 2534. Repealed. Pub. L. 113-66, div. C, title XXXI, §3146(c)(8)(A), Dec. 26, 2013, 127 Stat. 1075

Section, Pub. L. 107-314, div. D, title XLII, §4214, as added Pub. L. 109-364, div. C, title XXXI, §3111(a), Oct. 17, 2006, 120 Stat. 2502; amended Pub. L. 112-239, div. C, title XXXI, §3131(g)(1), Jan. 2, 2013, 126 Stat. 2181, related to plan for transformation of National Nuclear Security Administration nuclear security enterprise.

§ 2535. Replacement project for Chemistry and Metallurgy Research Building, Los Alamos National Laboratory, New Mexico

(a) Replacement building required

The Secretary of Energy shall construct at Los Alamos National Laboratory, New Mexico, a building to replace the functions of the existing Chemistry and Metallurgy Research Building at Los Alamos National Laboratory associated with Department of Energy Hazard Category 2 special nuclear material operations.

(b) Limitation on cost

The cost of the building constructed under subsection (a) may not exceed \$3,700,000,000. If the Secretary determines the cost will exceed such amount, the Secretary shall submit a detailed justification for such increase to the congressional defense committees.

(c) Project basis

The construction authorized by subsection (a) shall use as its basis the facility project in the Department of Energy Readiness and Technical Base designated 04-D-125 (chemistry and metallurgy facility replacement project at Los Alamos National Laboratory).

(d) Assistance

(1) In carrying out this section, the Secretary shall procure the services of the Commander of

the Naval Facilities Engineering Command to assist the Secretary with respect to the program management, oversight, and design activities of the project authorized by subsection (a).

(2) The Secretary shall carry out this subsection using funds made available for the Administration.

(e) Deadline for commencement of operations

The building constructed under subsection (a) shall commence operations by not later than December 31, 2026.

(Pub. L. 107-314, div. D, title XLII, §4215, as added Pub. L. 112-239, div. C, title XXXI, §3114(a)(1), Jan. 2, 2013, 126 Stat. 2170; amended Pub. L. 113-66, div. C, title XXXI, §3146(c)(9), Dec. 26, 2013, 127 Stat. 1075.)

AMENDMENTS

2013—Subsec. (d)(2). Pub. L. 113-66 struck out “National Nuclear Security” before “Administration”.

ALTERNATIVE PLUTONIUM STRATEGY; FULL OPERATIONAL CAPABILITY OF REPLACEMENT PROJECT

Pub. L. 112-239, div. C, title XXXI, §3114(c)–(e), Jan. 2, 2013, 126 Stat. 2171, 2172, as amended by Pub. L. 113-66, div. C, title XXXI, §3117, Dec. 26, 2013, 127 Stat. 1058, provided that:

“(c) LIMITATION ON ALTERNATIVE PLUTONIUM STRATEGY.—

“(1) LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (2), no funds authorized to be appropriated by this Act [see Tables for classification] or any other Act may be obligated or expended on any activities associated with a plutonium strategy for the National Nuclear Security Administration that does not include achieving full operational capability of the replacement project by December 31, 2026, as required by section 4215(e) of the Atomic Energy Defense Act [50 U.S.C. 2535(e)], as added by subsection (a).

“(2) USE OF FUNDS FOR MODULAR BUILDING STRATEGY.—The Administrator for Nuclear Security may obligate and expend funds referred to in paragraph (1) for activities relating to a modular building strategy on and after the date that is 60 days after the date on which the Nuclear Weapons Council established under section 179 of title 10, United States Code, notifies the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that—

“(A) the modular building strategy—

“(i) meets requirements for maintaining the nuclear weapons stockpile over a 30-year period;

“(ii) meets requirements for implementation of a responsive infrastructure, including meeting plutonium pit production requirements; and

“(iii) will achieve full operating capability for not less than two modular structures by not later than 2027;

“(B) in fiscal year 2015, the National Nuclear Security Administration will begin the process of designing and building modular buildings in accordance with Department of Energy Order 413.3 (relating to relating to program management and project management for the acquisition of capital assets); and

“(C) the Administrator will include the costs of the modular building strategy in the estimated expenditures and proposed appropriations reflected in the future-years nuclear security program submitted under section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453).

“(3) MODULAR BUILDING STRATEGY DEFINED.—In this subsection, the term ‘modular building strategy’ means an alternative strategy to the replacement project that consists of repurposing existing facilities

and constructing a series of modular structures, each of which is fully useable, to complement the function of the plutonium facility (PF-4) at Los Alamos National Laboratory, New Mexico, in accordance with all applicable safety and security standards of the Department of Energy.

“(d) NAVAL REACTOR STUDY.—

“(1) IN GENERAL.—The Deputy Administrator for Naval Reactors shall conduct a study of the replacement project, including an analysis of the cost, benefits, and risks with respect to nuclear safety.

“(2) SUBMISSION.—Not later than 18 months after the date of the enactment of this Act [Jan. 2, 2013], the Deputy Administrator shall submit to the congressional defense committees a report on the study under paragraph (1), including recommendations of the Deputy Administrator with respect to the project structure, oversight model, and potential cost savings of the replacement project.

“(3) CONSIDERATION OF RECOMMENDATIONS.—In carrying out the replacement project, the Secretary of Energy shall consider the recommendations made by the Deputy Administrator in the report under paragraph (2) and incorporate such recommendations into the project as the Secretary considers appropriate.

“(4) FUNDING.—The Secretary of Energy and the Deputy Administrator shall carry out this subsection using funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for the National Nuclear Security Administration that are not made available for the Naval Nuclear Propulsion Program.

“(e) REPLACEMENT PROJECT DEFINED.—In this section [enacting this section and this note], the term ‘replacement project’ means the replacement project for the Chemistry and Metallurgy Research Building authorized by section 4215 of the Atomic Energy Defense Act [50 U.S.C. 2535], as added by subsection (a).”

§ 2536. Reports on lifetime extension programs

(a) Reports required

Before proceeding beyond phase 6.2 activities with respect to any lifetime extension program, the Nuclear Weapons Council shall submit to the congressional defense committees a report on such phase 6.2 activities, including—

(1) an assessment of the lifetime extension options considered for the phase 6.2 activities, including whether the subsystems and components in each option are considered to be a refurbishment, reuse, or replacement of such subsystem or component; and

(2) an assessment of the option selected for the phase 6.2 activities, including—

(A) whether the subsystems and components will be refurbished, reused, or replaced; and

(B) the advantages and disadvantages of refurbishment, reuse, and replacement for each such subsystem and component.

(b) Phase 6.2 activities defined

In this section, the term “phase 6.2 activities” means, with respect to a lifetime extension program, the phase 6.2 feasibility study and option down-select.

(Pub. L. 107-314, div. D, title XLII, § 4216, as added Pub. L. 112-239, div. C, title XXXI, § 3141(a), Jan. 2, 2013, 126 Stat. 2193; amended Pub. L. 113-66, div. C, title XXXI, § 3146(a)(2)(B), Dec. 26, 2013, 127 Stat. 1072.)

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-66 struck out “established by section 179 of title 10” after “Nuclear Weapons Council” in introductory provisions.

§ 2537. Selected Acquisition Reports and independent cost estimates and reviews of life extension programs and new nuclear facilities

(a) Selected Acquisition Reports

(1) At the end of each fiscal-year quarter, the Secretary of Energy, acting through the Administrator, shall submit to the congressional defense committees a report on each nuclear weapon system undergoing life extension. The reports shall be known as Selected Acquisition Reports for the weapon system concerned.

(2) The information contained in the Selected Acquisition Report for a fiscal-year quarter for a nuclear weapon system shall be the information contained in the Selected Acquisition Report for such fiscal-year quarter for a major defense acquisition program under section 2432 of title 10, expressed in terms of the nuclear weapon system.

(b) Independent cost estimates and reviews

(1) The Secretary, acting through the Administrator, shall submit to the congressional defense committees and the Nuclear Weapons Council the following:

(A) An independent cost estimate of the following:

(i) Each nuclear weapon system undergoing life extension at the completion of phase 6.2A, relating to design definition and cost study.

(ii) Each nuclear weapon system undergoing life extension before initiation of phase 6.5, relating to first production.

(iii) Each new nuclear facility within the nuclear security enterprise that is estimated to cost more than \$500,000,000 before such facility achieves critical decision 1 and before such facility achieves critical decision 2 in the acquisition process.

(B) An independent cost review of each nuclear weapon system undergoing life extension at the completion of phase 6.2, relating to study of feasibility and down-select.

(2) A cost estimate or review submitted under this subsection before October 1, 2015, may not be prepared by the Department of Energy or the Administration.

(3) Each cost estimate or review submitted under this subsection shall be submitted in unclassified form, but may include a classified annex if necessary.

(c) Authority for further assessments

Upon the request of the Administrator, the Secretary of Defense, acting through the Director of Cost Assessment and Program Evaluation and in consultation with the Administrator, may conduct an independent cost assessment of any initiative or program of the Administration that is estimated to cost more than \$500,000,000.

(Pub. L. 107-314, div. D, title XLII, § 4217, as added Pub. L. 112-239, div. C, title XXXI, § 3162(a), Jan. 2, 2013, 126 Stat. 2204; amended Pub. L. 113-66, div. C, title XXXI, §§ 3112(b), 3146(a)(2)(C), Dec. 26, 2013, 127 Stat. 1053, 1072; Pub. L. 113-291, div. C, title XXXI, § 3114(a), (b), Dec. 19, 2014, 128 Stat. 3887, 3888.)

AMENDMENTS

2014—Pub. L. 113–291, §3114(b)(1), substituted “estimates and reviews of” for “estimates on” in section catchline.

Subsec. (b). Pub. L. 113–291, §3114(b)(2)(A), inserted “and reviews” after “estimates” in heading.

Subsec. (b)(1). Pub. L. 113–291, §3114(a)(3), struck out “an independent cost estimate of” after “Nuclear Weapons Council” in introductory provisions.

Pub. L. 113–291, §3114(a)(1), (4), (5), inserted subpar. (A) designation and introductory provisions, redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, of subpar. (A), and added subpar. (B).

Subsec. (b)(1)(A)(iii). Pub. L. 113–291, §3114(a)(2), substituted “critical decision 1 and before such facility achieves critical decision 2” for “critical decision 2”.

Subsec. (b)(2), (3). Pub. L. 113–291, §3114(b)(2)(B), inserted “or review” after “estimate”.

2013—Subsec. (b)(1). Pub. L. 113–66, §3146(a)(2)(C), struck out “established under section 179 of title 10” after “Council” in introductory provisions.

Subsec. (b)(2). Pub. L. 113–66, §3112(b)(1), substituted “submitted under this subsection before October 1, 2015,” for “for purposes of this subsection”.

Subsec. (b)(3). Pub. L. 113–66, §3112(b)(2), added par. (3).

§ 2538. Advice to President and Congress regarding safety, security, and reliability of United States nuclear weapons stockpile

(a) Policy

(1) In general

It is the policy of the United States—

- (A) to maintain a safe, secure, effective, and reliable nuclear weapons stockpile; and
- (B) as long as other nations control or actively seek to acquire nuclear weapons, to retain a credible nuclear deterrent.

(2) Nuclear weapons stockpile

It is in the security interest of the United States to sustain the United States nuclear weapons stockpile through a program of stockpile stewardship, carried out at the national security laboratories and nuclear weapons production facilities.

(3) Sense of Congress

It is the sense of Congress that—

(A) the United States should retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against the vital interests of the United States;

(B) the United States should continue to maintain nuclear forces of sufficient size and capability to implement an effective and robust deterrent strategy; and

(C) the advice of the persons required to provide the President and Congress with assurances of the safety, security, effectiveness, and reliability of the nuclear weapons force should be scientifically based, without regard for politics, and of the highest quality and integrity.

(b), (c) Omitted

(d) Advice and opinions regarding nuclear weapons stockpile

In addition to a director of a national security laboratory or a nuclear weapons production facility under section 2533 of this title, any mem-

ber of the Nuclear Weapons Council or the Commander of the United States Strategic Command may also submit to the President, the Secretary of Defense, the Secretary of Energy, or the congressional defense committees advice or opinion regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(e) Expression of individual views

(1) In general

No individual, including a representative of the President, may take any action against, or otherwise constrain, a director of a national security laboratory or a nuclear weapons production facility, a member of the Nuclear Weapons Council, or the Commander of the United States Strategic Command from presenting the professional views of the director, member, or Commander, as the case may be, to the President, the National Security Council, or Congress regarding—

(A) the safety, security, reliability, or credibility of the nuclear weapons stockpile and nuclear forces; or

(B) the status of, and plans for, the capabilities and infrastructure that support and sustain the nuclear weapons stockpile and nuclear forces.

(2) Construction

Nothing in paragraph (1)(B) may be construed to affect the interagency budget process.

(f) Representative of the President defined

In this section, the term “representative of the President” means the following:

- (1) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.
- (2) Any member or official of the National Security Council.
- (3) Any member or official of the Joint Chiefs of Staff.
- (4) Any official of the Office of Management and Budget.

(Pub. L. 107–314, div. D, title XLII, §4218, formerly Pub. L. 105–85, div. A, title XIII, §1305, Nov. 18, 1997, 111 Stat. 1952, renumbered Pub. L. 107–314, div. D, title XLII, §4218, and amended Pub. L. 112–239, div. C, title XXXI, §3164(a), (b), Jan. 2, 2013, 126 Stat. 2206; Pub. L. 113–66, div. C, title XXXI, §3146(a)(2)(D), (c)(10), Dec. 26, 2013, 127 Stat. 1072, 1075; Pub. L. 113–291, div. C, title XXXI, §3142(e), Dec. 19, 2014, 128 Stat. 3900.)

REFERENCES IN TEXT

Section 2533 of this title, referred to in subsec. (d), was in the original “section 4213”, meaning section 4213 of Pub. L. 107–314, which is classified principally to section 2533 of this title.

CODIFICATION

Section is comprised of section 4218 of Pub. L. 107–314. Subsecs. (b) and (c) of section 4218 of Pub. L. 107–314 amended section 2533 of this title.

Section was formerly classified to section 7274p of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 112–239.

AMENDMENTS

2014—Subsec. (d). Pub. L. 113–291, §3142(e)(1), substituted “Commander” for “commander”.

Subsec. (e)(1). Pub. L. 113-291, § 3142(e)(2), substituted “a representative” for “representatives” in introductory provisions.

2013—Subsec. (a). Pub. L. 113-66, § 3146(c)(10)(A), (B), redesignated subsec. (b) as (a) and struck out former subsec. (a), which related to congressional findings concerning safety and reliability of the nuclear weapons stockpile.

Subsec. (a)(9). Pub. L. 112-239, § 3164(b)(1), (3), substituted “national security laboratories” for “nuclear weapons laboratories” and “nuclear weapons production facilities” for “nuclear weapons production plants”.

Subsec. (a)(11). Pub. L. 112-239, § 3164(b)(1), substituted “national security laboratories” for “nuclear weapons laboratories”.

Subsec. (b). Pub. L. 113-66, § 3146(c)(10)(B), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (b)(2). Pub. L. 112-239, § 3164(b)(1), (3), substituted “national security laboratories” for “nuclear weapons laboratories” and “nuclear weapons production facilities” for “nuclear weapons production plants”.

Subsec. (c). Pub. L. 113-66, § 3146(c)(10)(B), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 113-66, § 3146(c)(10)(B), (C), redesignated subsec. (e) as (d) and substituted “under section 2533 of this title” for “(under section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 42 U.S.C. 7274o))”. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 113-66, § 3146(c)(10)(B), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 113-66, § 3146(a)(2)(D)(i), struck out “Joint” before “Nuclear Weapons Council”.

Pub. L. 112-239, § 3164(b)(2), (4), substituted “national security laboratory” for “nuclear weapons laboratory” and “nuclear weapons production facility” for “nuclear weapons production plant”.

Subsec. (f). Pub. L. 113-66, § 3146(c)(10)(B), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 112-239, § 3164(a)(4), amended subsec. (f) generally. Prior to amendment, text read as follows: “A representative of the President may not take any action against, or otherwise constrain, a director of a nuclear weapons laboratory or a nuclear weapons production plant, a member of the Joint Nuclear Weapons Council, or the Commander of United States Strategic Command for presenting individual views to the President, the National Security Council, or Congress regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.”

Subsec. (f)(1). Pub. L. 113-66, § 3146(a)(2)(D)(ii), struck out “established under section 179 of title 10” after “Nuclear Weapons Council” in introductory provisions.

Subsec. (g). Pub. L. 113-66, § 3146(c)(10)(B), redesignated subsec. (g) as (f).

Pub. L. 112-239, § 3164(b)(5), amended subsec. (g) generally. Prior to amendment, subsec. (g) set out definitions.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, see sections 183(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

All national security functions and activities performed immediately before Oct. 5, 1999, by nuclear weapons laboratories and production plants defined in this section, transferred to the Administrator for Nu-

clear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of this title.

§ 2538a. Plutonium pit production capacity

(a) Requirement

Consistent with the requirements of the Secretary of Defense, the Secretary of Energy shall ensure that the nuclear security enterprise—

- (1) during 2021, begins production of qualification plutonium pits;
- (2) during 2024, produces not less than 10 war reserve plutonium pits;
- (3) during 2025, produces not less than 20 war reserve plutonium pits;
- (4) during 2026, produces not less than 30 war reserve plutonium pits; and
- (5) during a pilot period of not less than 90 days during 2027 (subject to subsection (b)), demonstrates the capability to produce war reserve plutonium pits at a rate sufficient to produce 80 pits per year.

(b) Authorization of two-year delay of demonstration requirement

The Secretary of Energy and the Secretary of Defense may jointly delay, for not more than two years, the requirement under subsection (a)(5) if—

- (1) the Secretary of Defense and the Secretary of Energy jointly submit to the congressional defense committees a report describing—
 - (A) the justification for the proposed delay;
 - (B) the effects of the proposed delay on stockpile stewardship and modernization, life extension programs, future stockpile strategy, and dismantlement efforts; and
 - (C) whether the proposed delay is consistent with national policy regarding creation of a responsive nuclear infrastructure; and
- (2) the Commander of the United States Strategic Command submits to the congressional defense committees a report containing the assessment of the Commander with respect to the potential risks to national security of the proposed delay in meeting—
 - (A) the nuclear deterrence requirements of the United States Strategic Command; and
 - (B) national requirements related to creation of a responsive nuclear infrastructure.

(c) Annual certification

Not later than March 1, 2015, and each year thereafter through 2027 (or, if the authority under subsection (b) is exercised, 2029), the Secretary of Energy shall certify to the congressional defense committees and the Secretary of Defense that the programs and budget of the Secretary of Energy will enable the nuclear security enterprise to meet the requirements under subsection (a).

(d) Plan

If the Secretary of Energy does not make a certification under subsection (c) by March 1 of any year in which a certification is required under that subsection, by not later than May 1 of such year, the Chairman of the Nuclear Weapons Council shall submit to the congressional

defense committees a plan to enable the nuclear security enterprise to meet the requirements under subsection (a). Such plan shall include identification of the resources of the Department of Energy that the Chairman determines should be redirected to support the plan to meet such requirements.

(Pub. L. 107-314, div. D, title XLII, §4219, as added Pub. L. 113-291, div. C, title XXXI, §3112(b)(1), Dec. 19, 2014, 128 Stat. 3886.)

PART B—TRITIUM

§ 2541. Tritium production program

(a) Establishment of program

The Secretary of Energy shall establish a tritium production program that is capable of meeting the tritium requirements of the United States for nuclear weapons.

(b) Location of tritium production facility

The Secretary shall locate any new tritium production facility of the Department of Energy at the Savannah River Site, South Carolina.

(c) In-reactor tests

The Secretary may perform in-reactor tests of tritium target rods as part of the activities carried out under the commercial light water reactor program.

(Pub. L. 107-314, div. D, title XLII, §4231, formerly Pub. L. 104-106, div. C, title XXXI, §3133, Feb. 10, 1996, 110 Stat. 618; renumbered Pub. L. 107-314, div. D, title XLII, §4231, and amended Pub. L. 108-136, div. C, title XXXI, §3141(e)(16), Nov. 24, 2003, 117 Stat. 1761; Pub. L. 112-239, div. C, title XXXI, §3131(h), Jan. 2, 2013, 126 Stat. 2182; Pub. L. 113-66, div. C, title XXXI, §3146(c)(11)(A), Dec. 26, 2013, 127 Stat. 1075.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

Subsec. (b) of section 2543 of this title, which was transferred to the end of this section and redesignated subsec. (c) by Pub. L. 113-66, §3146(c)(11)(A), was based on Pub. L. 107-314, div. D, title XLII, §4233, formerly Pub. L. 104-201, div. C, title XXXI, §3133(c), (d), Sept. 23, 1996, 110 Stat. 2830; renumbered Pub. L. 107-314, div. D, title XLII, §4233, and amended Pub. L. 108-136, div. C, title XXXI, §3141(e)(18), Nov. 24, 2003, 117 Stat. 1761.

AMENDMENTS

2013—Pub. L. 112-239 amended section generally. Prior to amendment, section related to tritium production program.

Subsec. (c). Pub. L. 113-66 transferred subsec. (b) of section 2543 of this title to the end of this section and redesignated it subsec. (c). See Codification note above.

2003—Subsec. (a)(1). Pub. L. 108-136, §3141(e)(16)(D)(i), substituted “February 10, 1996” for “the date of the enactment of this Act”.

Subsec. (b). Pub. L. 108-136, §3141(e)(16)(D)(ii), inserted “of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106)” after “section 3101”.

Subsecs. (d)(2)(B), (e). Pub. L. 108-136, §3141(e)(16)(D)(i), substituted “February 10, 1996” for “the date of the enactment of this Act”.

§ 2542. Tritium recycling

(a) In general

Except as provided in subsection (b), the following activities shall be carried out at the Savannah River Site, South Carolina:

(1) All tritium recycling for weapons, including tritium refitting.

(2) All activities regarding tritium formerly carried out at the Mound Plant, Ohio.

(b) Exception

The following activities may be carried out at the Los Alamos National Laboratory, New Mexico:

(1) Research on tritium.

(2) Work on tritium in support of the defense inertial confinement fusion program.

(3) Provision of technical assistance to the Savannah River Site regarding the weapons surveillance program.

(Pub. L. 107-314, div. D, title XLII, §4232, formerly Pub. L. 104-106, div. C, title XXXI, §3136, Feb. 10, 1996, 110 Stat. 620; renumbered Pub. L. 107-314, div. D, title XLII, §4232, by Pub. L. 108-136, div. C, title XXXI, §3141(e)(17), Nov. 24, 2003, 117 Stat. 1761.)

§ 2543. Repealed. Pub. L. 113-66, div. C, title XXXI, § 3146(c)(11)(B), Dec. 26, 2013, 127 Stat. 1075

Section, Pub. L. 107-314, div. D, title XLII, §4233, formerly Pub. L. 104-201, div. C, title XXXI, §3133(c), (d), Sept. 23, 1996, 110 Stat. 2830; renumbered Pub. L. 107-314, div. D, title XLII, §4233, and amended Pub. L. 108-136, div. C, title XXXI, §3141(e)(18), Nov. 24, 2003, 117 Stat. 1761; Pub. L. 113-66, div. C, title XXXI, §3146(c)(11)(A), Dec. 26, 2013, 127 Stat. 1075, related to tritium production.

§ 2544. Modernization and consolidation of tritium recycling facilities

The Secretary of Energy shall carry out activities at the Savannah River Site, South Carolina, to—

(1) modernize and consolidate the facilities for recycling tritium from weapons; and

(2) provide a modern tritium extraction facility so as to ensure that such facilities have a capacity to recycle tritium from weapons that is adequate to meet the requirements for tritium for weapons specified in the Nuclear Weapons Stockpile Memorandum.

(Pub. L. 107-314, div. D, title XLII, §4234, formerly Pub. L. 104-201, div. C, title XXXI, §3134, Sept. 23, 1996, 110 Stat. 2830; renumbered Pub. L. 107-314, div. D, title XLII, §4234, and amended Pub. L. 108-136, div. C, title XXXI, §3141(e)(19), Nov. 24, 2003, 117 Stat. 1762; Pub. L. 112-239, div. C, title XXXI, §3131(i), Jan. 2, 2013, 126 Stat. 2182.)

AMENDMENTS

2013—Pub. L. 112-239 struck out subsec. (a) designation and heading “In general” and struck out subsec. (b), which limited funding to \$9,000,000 for activities under subsec. (a).

2003—Subsec. (b). Pub. L. 108-136, §3141(e)(19)(D), inserted “of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201)” after “section 3101”.

§ 2545. Procedures for meeting tritium production requirements

(a) Production of new tritium

The Secretary of Energy shall produce new tritium to meet the requirements of the Nuclear

Weapons Stockpile Memorandum at the Tennessee Valley Authority Watts Bar or Sequoyah nuclear power plants consistent with the Secretary's December 22, 1998, decision document designating the Secretary's preferred tritium production technology.

(b) Support

To support the method of tritium production set forth in subsection (a), the Secretary shall design and construct a new tritium extraction facility in the H-Area of the Savannah River Site, Aiken, South Carolina.

(c) Design and engineering development

The Secretary shall—

(1) complete preliminary design and engineering development of the Accelerator Production of Tritium technology design as a backup source of tritium to the source set forth in subsection (a) and consistent with the Secretary's December 22, 1998, decision document; and

(2) make available those funds necessary to complete engineering development and demonstration, preliminary design, and detailed design of key elements of the system consistent with the Secretary's decision document of December 22, 1998.

(Pub. L. 107-314, div. D, title XLII, § 4235, formerly Pub. L. 106-65, div. C, title XXXI, § 3134, Oct. 5, 1999, 113 Stat. 927; renumbered Pub. L. 107-314, div. D, title XLII, § 4235, by Pub. L. 108-136, div. C, title XXXI, § 3141(e)(20), Nov. 24, 2003, 117 Stat. 1762.)

SUBCHAPTER III—PROLIFERATION
MATTERS

§ 2561. Repealed. Pub. L. 111-84, div. C, title XXXI, § 3117(a), Oct. 28, 2009, 123 Stat. 2709

Section, Pub. L. 107-314, div. D, title XLIII, § 4301, formerly Pub. L. 106-65, div. C, title XXXI, § 3133, Nov. 18, 1997, 111 Stat. 2036; Pub. L. 105-261, div. A, title X, § 1069(b)(3), div. C, title XXXI, § 3131, Oct. 17, 1998, 112 Stat. 2136, 2246; renumbered Pub. L. 107-314, div. D, title XLIII, § 4301, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(f)(2), Nov. 24, 2003, 117 Stat. 1762, related to international cooperative stockpile stewardship.

§ 2562. Repealed. Pub. L. 113-66, div. C, title XXXI, § 3146(d)(1)(A), Dec. 26, 2013, 127 Stat. 1075

Section, Pub. L. 107-314, div. D, title XLIII, § 4302, formerly Pub. L. 106-65, div. C, title XXXI, § 3136, Oct. 5, 1999, 113 Stat. 927; renumbered Pub. L. 107-314, div. D, title XLIII, § 4302, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(f)(3), Nov. 24, 2003, 117 Stat. 1762; Pub. L. 112-81, div. C, title XXXI, § 3121(b), Dec. 31, 2011, 125 Stat. 1709; Pub. L. 112-239, div. C, title XXXI, § 3131(bb)(1)(D), Jan. 2, 2013, 126 Stat. 2185, related to nonproliferation initiatives and activities.

§ 2563. Annual report on status of Nuclear Materials Protection, Control, and Accounting Program

(a) Report required

Not later than January 1 of each year, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the status of efforts

during the preceding fiscal year under the Nuclear Materials Protection, Control, and Accounting Program of the Department of Energy to secure weapons-usable nuclear materials in countries where such materials have been identified as being at risk for theft or diversion.

(b) Contents

Each report under subsection (a) shall include the following:

(1) The number of buildings, including building locations, in each country covered by subsection (a) that received complete and integrated materials protection, control, and accounting systems for nuclear materials described in subsection (a) during the year covered by such report.

(2) The amounts of highly enriched uranium and plutonium in each such country that have been secured under systems described in paragraph (1) as of the date of such report.

(3) The amount of nuclear materials described in subsection (a) in each such country that continues to require securing under systems described in paragraph (1) as of the date of such report.

(4) A plan for actions to secure the nuclear materials identified in paragraph (3) under systems described in paragraph (1), including an estimate of the cost of such actions.

(5) The amounts expended through the fiscal year preceding the date of such report to secure nuclear materials described in subsection (a) under systems described in paragraph (1), set forth by total amount per country and by amount per fiscal year per country.

(c) Limitation on use of certain funds

(1) No amounts authorized to be appropriated for the Department of Energy by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398) or any other Act for purposes of the Nuclear Materials Protection, Control, and Accounting Program may be obligated or expended after September 30, 2000, for any project under the program at a site controlled by the Russian Ministry of Atomic Energy (MINATOM) in Russia until the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the access policy established with respect to such project, including a certification that the access policy has been implemented.

(2) The access policy with respect to a project under this subsection shall—

(A) permit appropriate determinations by United States officials regarding security requirements, including security upgrades, for the project; and

(B) ensure verification by United States officials that Department of Energy assistance at the project is being used for the purposes intended.

(Pub. L. 107-314, div. D, title XLIII, § 4303, formerly Pub. L. 106-398, § 1 [div. C, title XXXI, § 3171], Oct. 30, 2000, 114 Stat. 1654, 1654A-475; Pub. L. 107-314, div. C, title XXXI, § 3153, Dec. 2, 2002, 116 Stat. 2738; renumbered Pub. L. 107-314, div. D, title XLIII, § 4303, and amended Pub. L.

108–136, div. C, title XXXI, § 3141(f)(4), Nov. 24, 2003, 117 Stat. 1763.)

REFERENCES IN TEXT

The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, referred to in subsec. (c)(1), is Pub. L. 106–398, § 1 [H.R. 5408], Oct. 30, 2000, 114 Stat. 1654, 1654A–1, as amended. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly set out as a note under section 5952 of Title 22, Foreign Relations and Intercourse, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2003—Subsec. (c)(1). Pub. L. 108–136, § 3141(f)(4)(D), substituted “the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398)” for “this Act”.

2002—Subsec. (a). Pub. L. 107–314, § 3153(a), substituted “countries where such materials” for “Russia that”.

Subsec. (b)(1). Pub. L. 107–314, § 3153(b)(1), inserted “in each country covered by subsection (a)” after “locations.”.

Subsec. (b)(2). Pub. L. 107–314, § 3153(b)(2), substituted “in each such country” for “in Russia”.

Subsec. (b)(3). Pub. L. 107–314, § 3153(b)(3), inserted “in each such country” after “subsection (a)”.

Subsec. (b)(5). Pub. L. 107–314, § 3153(b)(4), substituted “by total amount per country and by amount per fiscal year per country” for “by total amount and by amount per fiscal year”.

§ 2564. Repealed. Pub. L. 113–66, div. C, title XXXI, § 3146(d)(2)(A), Dec. 26, 2013, 127 Stat. 1075

Section, Pub. L. 107–314, div. D, title XLIII, § 4304, formerly Pub. L. 106–398, § 1 [div. C, title XXXI, § 3172], Oct. 30, 2000, 114 Stat. 1654, 1654A–476; renumbered Pub. L. 107–314, div. D, title XLIII, § 4304, by Pub. L. 108–136, div. C, title XXXI, § 3141(f)(5), Nov. 24, 2003, 117 Stat. 1763, related to the Nuclear Cities Initiative.

§ 2565. Authority to conduct program relating to fissile materials

The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

(Pub. L. 107–314, div. D, title XLIII, § 4305, formerly Pub. L. 104–106, div. C, title XXXI, § 3131, Feb. 10, 1996, 110 Stat. 617; Pub. L. 107–314, div. C, title XXXI, § 3152, Dec. 2, 2002, 116 Stat. 2738; renumbered Pub. L. 107–314, div. D, title XLIII, § 4305, by Pub. L. 108–136, div. C, title XXXI, § 3141(f)(6), Nov. 24, 2003, 117 Stat. 1763.)

CODIFICATION

Section was formerly set out as a note under section 5952 of Title 22, Foreign Relations and Intercourse, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2002—Pub. L. 107–314, § 3152, struck out subsec. (a) designation and heading “Authority” and subsec. (b) heading and text. Prior to amendment, subsec. (b) related to semi-annual reports on obligations of funds.

COMPLETION OF MATERIAL PROTECTION, CONTROL, AND ACCOUNTING ACTIVITIES IN THE RUSSIAN FEDERATION

Pub. L. 113–291, div. C, title XXXI, § 3122(b), Dec. 19, 2014, 128 Stat. 3894, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2) or specifically authorized by Congress, international

material protection, control, and accounting activities in the Russian Federation shall be completed not later than fiscal year 2018.

“(2) EXCEPTION.—The limitation in paragraph (1) shall not apply to international material protection, control, and accounting activities in the Russian Federation associated with the Agreement Concerning the Management and Disposition of Plutonium Designated as No Longer Required for Defense Purposes and Related Cooperation, signed at Moscow and Washington August 29 and September 1, 2000, and entered into force July 13, 2011 (TIAS 11–713.1), between the United States and the Russian Federation.”

§ 2566. Disposition of weapons-usable plutonium at Savannah River Site

(a) Plan for construction and operation of MOX facility

(1) Not later than February 1, 2003, the Secretary of Energy shall submit to Congress a plan for the construction and operation of the MOX facility at the Savannah River Site, Aiken, South Carolina.

(2) The plan under paragraph (1) shall include—

(A) a schedule for construction and operations so as to achieve, as of January 1, 2012, and thereafter, the MOX production objective, and to produce 1 metric ton of mixed-oxide fuel by December 31, 2012; and

(B) a schedule of operations of the MOX facility designed so that 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site will be processed into mixed-oxide fuel by January 1, 2019.

(3)(A) Not later than February 15 each year, beginning in 2004 and continuing for as long as the MOX facility is in use, the Secretary shall submit to Congress a report on the implementation of the plan required by paragraph (1).

(B) Each report under subparagraph (A) for years before 2010 shall include—

(i) an assessment of compliance with the schedules included with the plan under paragraph (2); and

(ii) a certification by the Secretary whether or not the MOX production objective can be met by January 2012.

(C) Each report under subparagraph (A) for years after 2014 shall—

(i) address whether the MOX production objective has been met; and

(ii) assess progress toward meeting the obligations of the United States under the Plutonium Management and Disposition Agreement.

(D) Each report under subparagraph (A) for years after 2019 shall also include an assessment of compliance with the MOX production objective and, if not in compliance, the plan of the Secretary for achieving one of the following:

(i) Compliance with such objective.

(ii) Removal of all remaining defense plutonium and defense plutonium materials from the State of South Carolina.

(b) Corrective actions

(1) If a report under subsection (a)(3) indicates that construction or operation of the MOX facility is behind the applicable schedule under subsection (g) by 12 months or more, the Secretary

shall submit to Congress, not later than August 15 of the year in which such report is submitted, a plan for corrective actions to be implemented by the Secretary to ensure that the MOX facility project is capable of meeting the MOX production objective.

(2) If a plan is submitted under paragraph (1) in any year after 2008, the plan shall include corrective actions to be implemented by the Secretary to ensure that the MOX production objective is met.

(3) Any plan for corrective actions under paragraph (1) or (2) shall include established milestones under such plan for achieving compliance with the MOX production objective.

(4) If, before January 1, 2012, the Secretary determines that there is a substantial and material risk that the MOX production objective will not be achieved by 2012 because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until such risk is addressed and the Secretary certifies that the MOX production objective can be met by 2012.

(5) If, after January 1, 2014, the Secretary determines that the MOX production objective has not been achieved because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until the Secretary certifies that the MOX production objective can be met.

(6)(A) Upon making a determination under paragraph (4) or (5), the Secretary shall submit to Congress a report on the options for removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the State of South Carolina after April 15, 2002.

(B) Each report under subparagraph (A) shall include an analysis of each option set forth in the report, including the cost and schedule for implementation of such option, and any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to consideration or selection of such option.

(C) Upon submittal of a report under subparagraph (A), the Secretary shall commence any analysis that may be required under the National Environmental Policy Act of 1969 in order to select among the options set forth in the report.

(c) Contingent requirement for removal of plutonium and materials from Savannah River Site

If the MOX production objective is not achieved as of January 1, 2014, the Secretary shall, consistent with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other applicable laws, remove from the State of South Carolina, for storage or disposal elsewhere—

(1) not later than January 1, 2016, not less than 1 metric ton of defense plutonium or defense plutonium materials; and

(2) not later than January 1, 2022, an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2022, but not processed by the MOX facility.

(d) Economic and impact assistance

(1) If the MOX production objective is not achieved as of January 1, 2016, the Secretary shall, subject to the availability of appropriations, pay to the State of South Carolina each year beginning on or after that date through 2021 for economic and impact assistance an amount equal to \$1,000,000 per day, not to exceed \$100,000,000 per year, until the later of—

(A) the date on which the MOX production objective is achieved in such year; or

(B) the date on which the Secretary has removed from the State of South Carolina in such year at least 1 metric ton of defense plutonium or defense plutonium materials.

(2)(A) If, as of January 1, 2022, the MOX facility has not processed mixed-oxide fuel from defense plutonium and defense plutonium materials in the amount of not less than—

(i) one metric ton, in each of any two consecutive calendar years; and

(ii) three metric tons total,

the Secretary shall, from funds available to the Secretary, pay to the State of South Carolina for economic and impact assistance an amount equal to \$1,000,000 per day, not to exceed \$100,000,000 per year, until the removal by the Secretary from the State of South Carolina of an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2022, but not processed by the MOX facility.

(B) Nothing in this paragraph may be construed to terminate, supersede, or otherwise affect any other requirements of this section.

(3) If the State of South Carolina obtains an injunction that prohibits the Department of Energy from taking any action necessary for the Department to meet any deadline specified by this subsection, that deadline shall be extended for a period of time equal to the period of time during which the injunction is in effect.

(e) Failure to complete planned disposition program

If on July 1 each year beginning in 2025 and continuing for as long as the MOX facility is in use, less than 34 metric tons of defense plutonium or defense plutonium materials have been processed by the MOX facility, the Secretary shall submit to Congress a plan for—

(1) completing the processing of 34 metric tons of defense plutonium and defense plutonium material by the MOX facility; or

(2) removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site after April 15, 2002, but not processed by the MOX facility.

(f) Removal of mixed-oxide fuel upon completion of operations of MOX facility

If, one year after the date on which operation of the MOX facility permanently ceases, any mixed-oxide fuel remains at the Savannah River Site, the Secretary shall submit to Congress—

(1) a report on when such fuel will be transferred for use in commercial nuclear reactors; or

(2) a plan for removing such fuel from the State of South Carolina.

(g) Baseline

Not later than December 31, 2006, the Secretary shall submit to Congress a report on the construction and operation of the MOX facility that includes a schedule for revising the requirements of this section during fiscal year 2007 to conform with the schedule established by the Secretary for the MOX facility, which shall be based on estimated funding levels for the fiscal year.

(h) Definitions

In this section:

(1) MOX production objective

The term “MOX production objective” means production at the MOX facility of mixed-oxide fuel from defense plutonium and defense plutonium materials at an average rate equivalent to not less than one metric ton of mixed-oxide fuel per year. The average rate shall be determined by measuring production at the MOX facility from the date the facility is declared operational to the Nuclear Regulatory Commission through the date of assessment.

(2) MOX facility

The term “MOX facility” means the mixed-oxide fuel fabrication facility at the Savannah River Site, Aiken, South Carolina.

(3) Defense plutonium; defense plutonium materials

The terms “defense plutonium” and “defense plutonium materials” mean weapons-usable plutonium.

(Pub. L. 107–314, div. D, title XLIII, § 4306, formerly div. C, title XXXI, § 3182, Dec. 2, 2002, 116 Stat. 2747; renumbered div. D, title XLIII, § 4306, by Pub. L. 108–136, div. C, title XXXI, § 3141(f)(7)(A), Nov. 24, 2003, 117 Stat. 1763; amended Pub. L. 109–103, title III, § 313, Nov. 19, 2005, 119 Stat. 2280; Pub. L. 112–239, div. C, title XXXI, § 3116, Jan. 2, 2013, 126 Stat. 2172; Pub. L. 113–291, div. C, title XXXI, § 3142(f), Dec. 19, 2014, 128 Stat. 3900.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (b)(6)(B), (C) and (c), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2014—Subsec. (b)(6)(C). Pub. L. 113–291, § 3142(f)(1), substituted “subparagraph (A)” for “paragraph (A)”.

Subsec. (c)(2). Pub. L. 113–291, § 3142(f)(2), substituted “2002,” for “2002”.

Subsec. (d)(3). Pub. L. 113–291, § 3142(f)(3), which directed amendment of par. (3) by inserting “of Energy” after “Department”, was executed by making the insertion after “Department” the first place appearing to reflect the probable intent of Congress.

2013—Subsec. (a)(3)(C). Pub. L. 112–239, § 3116(1)(A), substituted “2014” for “2012” in introductory provisions.

Subsec. (a)(3)(D). Pub. L. 112–239, § 3116(1)(B), substituted “2019” for “2017” in introductory provisions.

Subsec. (b)(1). Pub. L. 112–239, § 3116(2)(A), struck out “by January 1, 2012” before period at end.

Subsec. (b)(5). Pub. L. 112–239, § 3116(2)(B), substituted “2014” for “2012”.

Subsec. (c). Pub. L. 112–239, § 3116(3)(A), substituted “2014” for “2012” in introductory provisions.

Subsec. (c)(1). Pub. L. 112–239, § 3116(3)(B), substituted “2016” for “2014”.

Subsec. (c)(2). Pub. L. 112–239, § 3116(3)(C), substituted “2022” for “2020” in two places.

Subsec. (d)(1). Pub. L. 112–239, § 3116(4)(A), substituted “2016” for “2014” and “2021” for “2019” in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 112–239, § 3116(4)(B), substituted “2022” for “2020” in two places.

Subsec. (e). Pub. L. 112–239, § 3116(5), substituted “2025” for “2023” in introductory provisions.

2005—Subsec. (a)(2)(A). Pub. L. 109–103, § 313(1)(A), substituted “2012” for “2009” in two places.

Subsec. (a)(3)(B)(ii). Pub. L. 109–103, § 313(1)(B)(i), substituted “2012” for “2009”.

Subsec. (a)(3)(C). Pub. L. 109–103, § 313(1)(B)(ii), substituted “2012” for “2009” in introductory provisions.

Subsec. (b)(1). Pub. L. 109–103, § 313(2)(A), substituted “(g)” for “(a)(2)” and “2012” for “2009”.

Subsec. (b)(4). Pub. L. 109–103, § 313(2)(B), substituted “2012” for “2009” wherever appearing.

Subsec. (b)(5). Pub. L. 109–103, § 313(2)(C), substituted “2012” for “2009”.

Subsec. (c). Pub. L. 109–103, § 313(3)(A), substituted “2012” for “2009” in introductory provisions.

Subsec. (c)(1). Pub. L. 109–103, § 313(3)(B), substituted “2014” for “2011”.

Subsec. (c)(2). Pub. L. 109–103, § 313(3)(C), substituted “2020” for “2017” in two places.

Subsec. (d)(1). Pub. L. 109–103, § 313(4)(A), substituted “2014” for “2011”, “subject to the availability of appropriations” for “from funds available to the Secretary”, and “2019” for “2016”.

Subsec. (d)(2)(A). Pub. L. 109–103, § 313(4)(B), substituted “2020” for “2017” in introductory and concluding provisions.

Subsec. (e). Pub. L. 109–103, § 313(5), substituted “2023” for “2020” in introductory provisions.

Subsecs. (g), (h). Pub. L. 109–103, § 313(6), (7), added subsec. (g) and redesignated former subsec. (g) as (h).

§ 2567. Disposition of surplus defense plutonium at Savannah River Site, Aiken, South Carolina

(a) Consultation required

The Secretary of Energy shall consult with the Governor of the State of South Carolina regarding any decisions or plans of the Secretary related to the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, Aiken, South Carolina.

(b) Notice required

For each shipment of defense plutonium or defense plutonium materials to the Savannah River Site, the Secretary shall, not less than 30 days before the commencement of such shipment, submit to the congressional defense committees a report providing notice of such shipment.

(c) Plan for disposition

The Secretary shall prepare a plan for disposal of the surplus defense plutonium and defense plutonium materials currently located at the Savannah River Site and for disposal of defense plutonium and defense plutonium materials to be shipped to the Savannah River Site in the future. The plan shall include the following:

- (1) A review of each option considered for such disposal.
- (2) An identification of the preferred option for such disposal.
- (3) With respect to the facilities for such disposal that are required by the Department of Energy's Record of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement dated January 14, 1997—
 - (A) a statement of the cost of construction and operation of such facilities;
 - (B) a schedule for the expeditious construction of such facilities, including milestones; and
 - (C) a firm schedule for funding the cost of such facilities.
- (4) A specification of the means by which all such defense plutonium and defense plutonium materials will be removed in a timely manner from the Savannah River Site for storage or disposal elsewhere.

(d) Plan for alternative disposition

If the Secretary determines not to proceed at the Savannah River Site with construction of the plutonium immobilization plant, or with the mixed oxide fuel fabrication facility, the Secretary shall prepare a plan that identifies a disposition path for all defense plutonium and defense plutonium materials that would otherwise have been disposed of at such plant or such facility, as applicable.

(e) Submission of plans

Not later than February 1, 2002, the Secretary shall submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable).

(f) Limitation on plutonium shipments

If the Secretary does not submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable) by February 1, 2002, the Secretary shall be prohibited from shipping defense plutonium or defense plutonium materials to the Savannah River Site during the period beginning on February 1, 2002, and ending on the date on which such plans are submitted to Congress.

(g) Rule of construction

Nothing in this section may be construed to prohibit or limit the Secretary from shipping defense plutonium or defense plutonium materials to sites other than the Savannah River Site during the period referred to in subsection (f) or any other period.

(h) Annual report on funding for fissile materials disposition activities

The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for

each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report setting forth the extent to which amounts requested for the Department for such fiscal year for fissile materials disposition activities will enable the Department to meet commitments for the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, and for any other fissile materials disposition activities, in such fiscal year.

(Pub. L. 107-314, div. D, title XLIII, § 4306A, formerly Pub. L. 107-107, div. C, title XXXI, § 3155, Dec. 28, 2001, 115 Stat. 1378; renumbered Pub. L. 107-314, div. D, title XLIII, § 4306A, by Pub. L. 108-136, div. C, title XXXI, § 3141(f)(7)(B), Nov. 24, 2003, 117 Stat. 1763.)

§ 2568. Authority to use international nuclear materials protection and cooperation program funds outside the former Soviet Union**(a) Authority**

Subject to the provisions of this section, the President may obligate and expend international nuclear materials protection and cooperation program funds for a fiscal year, and any such funds for a fiscal year before such fiscal year that remain available for obligation, for a defense nuclear nonproliferation project or activity outside the states of the former Soviet Union that has not previously been authorized by Congress if the President determines each of the following:

- (1) That such project or activity will—
 - (A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or
 - (ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and
- (B) be completed in a short period of time.
- (2) That the Department of Energy is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) Scope of authority

The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

(c) Limitation on availability of funds

- (1) The President may not obligate funds for a project or activity under the authority in subsection (a) until the President makes each determination specified in that subsection with respect to such project or activity.
- (2) Not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity, the President shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—
 - (A) a justification for such determinations; and
 - (B) a description of the scope and duration of such project or activity.

(d) Additional limitations and requirements

Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

(1) Any requirement for prior notice or other reports to Congress on the use of international nuclear materials protection and cooperation program funds or on international nuclear materials protection and cooperation program projects or activities.

(2) Any limitation on the obligation or expenditure of international nuclear materials protection and cooperation program funds.

(3) Any limitation on international nuclear materials protection and cooperation program projects or activities.

(e) Funds

As used in this section, the term “international nuclear materials protection and cooperation program funds” means the funds appropriated pursuant to an authorization of appropriations for the International Nuclear Materials Protection and Cooperation Program.

(Pub. L. 108-136, div. C, title XXXI, §3124, Nov. 24, 2003, 117 Stat. 1747; Pub. L. 108-375, div. C, title XXXI, §3131, Oct. 28, 2004, 118 Stat. 2165.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Atomic Energy Defense Act which comprises this chapter.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375, §3131(a), inserted “that has not previously been authorized by Congress” after “states of the former Soviet Union”.

Subsec. (c). Pub. L. 108-375, §3131(b), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed \$50,000,000.”

Subsec. (d). Pub. L. 108-375, §3131(b)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 108-375, §3131(c), substituted “the funds appropriated pursuant to an authorization of appropriations for the International Nuclear Materials Protection and Cooperation Program” for “the funds appropriated pursuant to the authorization of appropriations in section 3101(a)(2) for such program”.

Pub. L. 108-375, §3131(b)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 108-375, §3131(b)(2), redesignated subsec. (f) as (e).

§ 2569. Acceleration of removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide

(a) Sense of Congress

(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on

Nuclear Materials to carry out the program authorized by subsection (b).

(b) Program authorized

The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) Program elements

(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials, radiological materials, and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of re-

actors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, non-governmental organizations, and other international entities as the Secretary of Energy considers appropriate for the program.

(d) Reports

(1) Not later than March 15, 2005, the Secretary of Energy shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report on the program under subsection (b) that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) Funding

Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear non-

proliferation activities shall be available for purposes of the program under this section.

(f) Participation by other governments and organizations

(1) In general

The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the programs described in paragraph (2).

(2) Programs covered

The programs described in this paragraph are any programs within the Office of Defense Nuclear Nonproliferation of the National Nuclear Security Administration.

(3) Retention and use of amounts

Notwithstanding section 3302 of title 31, the Secretary of Energy may retain and use amounts contributed under an agreement under paragraph (1) for purposes of the programs described in paragraph (2). Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

(4) Return of amounts not used within 5 years

If an amount contributed under an agreement under paragraph (1) is not used under this subsection within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.

(5) Notice to congressional defense committees

Not later than 30 days after the receipt of an amount contributed under paragraph (1), the Secretary of Energy shall submit to the congressional defense committees a notice specifying the purpose and value of the contribution and identifying the person who contributed it. The Secretary may not use the amount until 15 days after the notice is submitted.

(6) Annual report

Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees a report on the receipt and use of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

(A) a statement of any amounts received under this subsection, including, for each such amount, the value of the contribution and the person who contributed it;

(B) a statement of any amounts used under this subsection, including, for each such amount, the purposes for which the amount was used; and

(C) a statement of the amounts retained but not used under this subsection, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.

(7) Expiration

The authority to accept, retain, and use contributions under this subsection expires on December 31, 2018.

(g) Definitions

In this section:

(1) The term “fissile materials” means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term “radiological materials” includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226, Strontium-90, Curium-244, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term “related equipment” includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term “highly-enriched uranium” means uranium enriched to or above 20 percent in the isotope 235.

(5) The term “low-enriched uranium” means uranium enriched below 20 percent in the isotope 235.

(6) The term “proliferation-attractive”, in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

(Pub. L. 108-375, div. C, title XXXI, § 3132, Oct. 28, 2004, 118 Stat. 2166; Pub. L. 109-364, div. C, title XXXI, § 3113, Oct. 17, 2006, 120 Stat. 2504; Pub. L. 112-239, div. C, title XXXI, § 3118, Jan. 2, 2013, 126 Stat. 2173.)

CODIFICATION

Section was enacted as part of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, and not as part of the Atomic Energy Defense Act which comprises this chapter.

AMENDMENTS

2013—Subsec. (f)(2). Pub. L. 112-239, § 3118(a), amended par. (2) generally. Prior to amendment, par. (2) related to programs covered and listed certain international programs within the Global Threat Reduction Initiative.

Subsec. (f)(7). Pub. L. 112-239, § 3118(b), substituted “December 31, 2018” for “December 31, 2013”.

2006—Subsecs. (f), (g). Pub. L. 109-364 added subsec. (f) and redesignated former subsec. (f) as (g).

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees has the meaning given that term in section 101(a)(16) of Title 10, Armed Forces, see section 3 of Pub. L. 108-375, Oct. 28, 2004, 118 Stat. 1825. See note under section 101 of Title 10.

§ 2570. Silk Road Initiative**(a) Program authorized**

(1) The Secretary of Energy may carry out a program, to be known as the Silk Road Initia-

tive, to promote non-weapons-related employment opportunities for scientists, engineers, and technicians formerly engaged in activities to develop and produce weapons of mass destruction in Silk Road nations. The program should—

(A) incorporate best practices under the Initiatives for Proliferation Prevention program; and

(B) facilitate commercial partnerships between private entities in the United States and scientists, engineers, and technicians in the Silk Road nations.

(2) Before implementing the program with respect to multiple Silk Road nations, the Secretary of Energy shall carry out a pilot program with respect to one Silk Road nation selected by the Secretary. It is the sense of Congress that the Secretary should select the Republic of Georgia.

(b) Silk Road nations defined

In this section, the Silk Road nations are Armenia, Azerbaijan, the Republic of Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(c) Funding

Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, up to \$10,000,000 may be used to carry out this section.

(Pub. L. 108-375, div. C, title XXXI, § 3133, Oct. 28, 2004, 118 Stat. 2168.)

CODIFICATION

Section was enacted as part of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, and not as part of the Atomic Energy Defense Act which comprises this chapter.

§ 2571. Nuclear Nonproliferation Fellowships for scientists employed by United States and Russian Federation**(a) In general**

(1) From amounts made available to carry out this section, the Administrator for Nuclear Security may carry out a program under which the Administrator awards, to scientists employed at nonproliferation research laboratories of the Russian Federation and the United States, international exchange fellowships, to be known as Nuclear Nonproliferation Fellowships, in the nuclear nonproliferation sciences.

(2) The purpose of the program shall be to provide opportunities for advancement in the nuclear nonproliferation sciences to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in those sciences.

(3) A fellowship awarded to a scientist under the program shall be for collaborative study and training or advanced research at—

(A) a nonproliferation research laboratory of the Russian Federation, in the case of a scientist employed at a nonproliferation research laboratory of the United States; and

(B) a nonproliferation research laboratory of the United States, in the case of a scientist employed at a nonproliferation research laboratory of the Russian Federation.

(4) The duration of a fellowship under the program may not exceed two years, except that the Administrator may provide for a longer duration in an individual case to the extent warranted by extraordinary circumstances, as determined by the Administrator.

(5) In a calendar year, the Administrator may not award more than—

(A) one fellowship to a scientist employed at a nonproliferation research laboratory of the Russian Federation; and

(B) one fellowship to a scientist employed at a nonproliferation research laboratory of the United States.

(6) A fellowship under the program shall include—

(A) travel expenses; and

(B) any other expenses that the Administrator considers appropriate, such as room and board.

(b) Definitions

In this section:

(1) The term “nonproliferation research laboratory” means, with respect to a country, a national laboratory of that country at which research in the nuclear nonproliferation sciences is carried out.

(2) The term “nuclear nonproliferation sciences” means bodies of scientific knowledge relevant to developing or advancing the means to prevent or impede the proliferation of nuclear weaponry.

(3) The term “scientist” means an individual who has a degree from an institution of higher education in a science that has practical application in the nuclear nonproliferation sciences.

(c) Funding

Amounts available to the Department of Energy for defense nuclear nonproliferation activities shall be available for the fellowships authorized by subsection (a).

(Pub. L. 108–375, div. C, title XXXI, § 3134, Oct. 28, 2004, 118 Stat. 2169.)

CODIFICATION

Section was enacted as part of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, and not as part of the Atomic Energy Defense Act which comprises this chapter.

PROGRAM ON SCIENTIFIC ENGAGEMENT FOR NONPROLIFERATION

Pub. L. 112–239, div. C, title XXXI, § 3122, Jan. 2, 2013, 126 Stat. 2176, as amended by Pub. L. 113–66, div. C, title XXXI, § 3125, Dec. 26, 2013, 127 Stat. 1063, provided that:

“(a) PROGRAM REQUIRED.—

“(1) SCIENTIFIC ENGAGEMENT.—The Secretary of Energy, acting through the Administrator for Nuclear Security, shall carry out a program on scientific engagement in countries selected by the Secretary for purposes of the program to advance global nonproliferation and nuclear security efforts.

“(2) ELEMENTS.—The program under paragraph (1) shall include the following elements:

“(A) Training and capacity-building to strengthen nonproliferation and security best practices.

“(B) Engagement of scientists of the United States with foreign counterparts to advance nonproliferation goals.

“(3) DISTINCT PROGRAM.—The program required by this subsection shall be a distinct program from the

Global Initiatives for Proliferation Prevention program.

“(b) LIMITATION.—

“(1) REPORT ON COMMENCEMENT OF PROGRAM.—Of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2013 or any fiscal year thereafter for the National Nuclear Security Administration, not more than 50 percent may be obligated or expended under the program under subsection (a) until the date on which the Administrator submits to the appropriate congressional committees, and to the Comptroller General of the United States, a report setting forth the following:

“(A) For each country selected for the program as of the date of such report—

“(i) a proliferation threat assessment prepared by the Director of National Intelligence; and

“(ii) metrics for evaluating the effectiveness of the program.

“(B) Accounting standards for the conduct of the program approved by the Comptroller General of the United States.

“(2) FORM.—The report under paragraph (1) may be submitted in unclassified form and may include a classified annex.

“(c) REPORTS ON MODIFICATION OF PROGRAM.—

“(1) IN GENERAL.—Not later than 30 days before making any modification in the program under subsection (a) (including selecting a new country for the program, ceasing the selection of a country for the program, or modifying an element of the program), the Administrator shall submit to the appropriate congressional committees a report on the modification.

“(2) NEW COUNTRY.—If the modification covered by a report under paragraph (1) consists of the selection for the program of a country not previously selected for the program, the report shall include, for each such country, the matters described in subsection (b)(1)(A).

“(3) WAIVER.—The Administrator may waive the requirement under paragraph (1) to submit a report on a modification in the program under subsection (a) not later than 30 days before making the modification if the Administrator—

“(A) determines that the modification is urgent and necessary to the national security interests of the United States; and

“(B) not later than 30 days after making the modification, submits to the appropriate congressional committees—

“(i) the report on the modification required by paragraph (1); and

“(ii) a justification for exercising the waiver authority under this paragraph.

“(4) FORM.—Each report submitted under paragraph (1) or (3)(B) may be submitted in unclassified form and may include a classified annex.

“(d) REPORT ON COORDINATION WITH OTHER U.S. NONPROLIFERATION PROGRAMS.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Administrator shall submit to the appropriate congressional committees a report describing the manner in which the program under subsection (a) coordinates with and complements, but does not duplicate, other nonproliferation programs of the Federal Government.

“(e) COMPTROLLER GENERAL REPORT.—

“(1) IN GENERAL.—Not later than 18 months after the date of the submittal of the report described in subsection (b)(1), the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the program under subsection (a).

“(2) MATTERS INCLUDED.—The report under paragraph (1) shall include the following:

“(A) An assessment by the Comptroller General of the effectiveness of the program, as determined in accordance with the metrics described in subsection (b)(1)(A)(ii).

“(B) An assessment of how the program coordinates with, complements, or duplicates other non-proliferation programs of the Federal Government.

“(C) Such other matters on the program as the Comptroller General considers appropriate.

“(f) TERMINATION.—The authority to carry out the program under subsection (a) shall expire on September 30, 2016.

“(g) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means the following:

“(1) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

“(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.”

§ 2572. International agreements on nuclear weapons data

The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations to conduct data collection and analysis to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon.

(Pub. L. 107–314, div. D, title XLIII, §4307, as added Pub. L. 110–181, div. C, title XXXI, §3129(a)(1), Jan. 28, 2008, 122 Stat. 584.)

§ 2573. International agreements on information on radioactive materials

The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations—

(1) to acquire for the materials information program of the Department of Energy validated information on the physical characteristics of radioactive material produced, used, or stored at various locations, in order to facilitate the ability to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon; and

(2) to obtain access to information described in paragraph (1) in the event of—

(A) a nuclear detonation; or

(B) the interdiction or discovery of a nuclear device or weapon or nuclear material.

(Pub. L. 107–314, div. D, title XLIII, §4308, as added Pub. L. 110–181, div. C, title XXXI, §3129(a)(1), Jan. 28, 2008, 122 Stat. 584.)

§ 2574. Enhancing nuclear forensics capabilities

(a) Research and development plan for nuclear forensics and attribution

(1) Research and development

The Secretary of Energy shall prepare and implement a research and development plan to improve nuclear forensics capabilities in the Department of Energy and at the national laboratories overseen by the Department of En-

ergy. The plan shall focus on improving the technical capabilities required—

(A) to enable a robust and timely nuclear forensic response to a nuclear explosion or to the interdiction of nuclear material or a nuclear weapon anywhere in the world; and

(B) to develop an international database that can attribute nuclear material or a nuclear weapon to its source.

(2) Reports

(A) The Secretary of Energy shall submit to the congressional defense committees—

(i) not later than 6 months after October 14, 2008, a report on the contents of the research and development plan described in paragraph (1), and any legislative changes required to implement the plan; and

(ii) not later than 18 months after October 14, 2008, a report on the status of implementing the plan.

(B) The Secretary shall submit each report required by this subsection in unclassified form, but may include a classified annex with such report.

(b) Omitted

(c) Presidential report

(1) In general

Not later than 90 days after October 14, 2008, the President shall submit to the appropriate committees of Congress a report on the involvement of senior-level executive branch leadership in nuclear terrorism preparedness exercises that include nuclear forensics analysis.

(2) Appropriate committees of Congress

In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security and Governmental Affairs of the Senate.

(Pub. L. 110–417, div. C, title XXXI, §3114, Oct. 14, 2008, 122 Stat. 4756.)

CODIFICATION

Section is comprised of section 3114 of Pub. L. 110–417. Subsec. (b) of section 3114 of Pub. L. 110–417 amended section 3129(b) of Pub. L. 110–181, div. C, title XXXI, Jan. 28, 2008, 122 Stat. 585.

Section was enacted as part of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, and not as part of the Atomic Energy Defense Act which comprises this chapter.

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees has the meaning given that term in section 101(a)(16) of Title 10, Armed Forces, see section 3 of Pub. L. 110–417, Oct. 14, 2008, 122 Stat. 4372. See note under section 101 of Title 10.

SUBCHAPTER IV—DEFENSE ENVIRONMENTAL CLEANUP MATTERS

AMENDMENTS

2013—Pub. L. 113–66, div. C, title XXXI, §3146(e)(16)(A), Dec. 26, 2013, 127 Stat. 1078, substituted “DEFENSE EN-

VIRONMENTAL CLEANUP” for “ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT” in subchapter heading.

PART A—DEFENSE ENVIRONMENTAL CLEANUP
AMENDMENTS

2013—Pub. L. 113–66, div. C, title XXXI, § 3146(e)(16)(B), Dec. 26, 2013, 127 Stat. 1078, substituted “Defense Environmental Cleanup” for “Environmental Restoration and Waste Management” in part heading.

§ 2581. Defense Environmental Cleanup Account

(a) Establishment

There is hereby established in the Treasury of the United States for the Department of Energy an account to be known as the “Defense Environmental Cleanup Account” (hereafter in this section referred to as the “Account”).

(b) Amounts in Account

All sums appropriated to the Department of Energy for defense environmental cleanup at defense nuclear facilities shall be credited to the Account. Such appropriations shall be authorized annually by law. To the extent provided in appropriations Acts, amounts in the Account shall remain available until expended.

(Pub. L. 107–314, div. D, title XLIV, § 4401, formerly Pub. L. 102–190, div. C, title XXXI, § 3134, Dec. 5, 1991, 105 Stat. 1575; renumbered Pub. L. 107–314, div. D, title XLIV, § 4401, by Pub. L. 108–136, div. C, title XXXI, § 3141(g)(2), Nov. 24, 2003, 117 Stat. 1764; Pub. L. 113–66, div. C, title XXXI, § 3146(e)(1), Dec. 26, 2013, 127 Stat. 1075.)

CODIFICATION

Section was formerly classified to section 7274f of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Pub. L. 113–66, § 3146(e)(1)(A), substituted “Cleanup” for “Restoration and Waste Management” in section catchline.

Subsec. (a). Pub. L. 113–66, § 3146(e)(1)(B), substituted ““Defense Environmental Cleanup Account”” for “‘Defense Environmental Restoration and Waste Management Account’”.

Subsec. (b). Pub. L. 113–66, § 3146(e)(1)(C), substituted “defense environmental cleanup” for “environmental restoration and waste management”.

§ 2582. Requirement to develop future use plans for defense environmental cleanup

(a) Authority to develop future use plans

The Secretary of Energy may develop future use plans for any defense nuclear facility at which defense environmental cleanup activities are occurring.

(b) Requirement to develop future use plans

The Secretary shall develop a future use plan for each of the following defense nuclear facilities:

- (1) Hanford Site, Richland, Washington.
- (2) Savannah River Site, Aiken, South Carolina.
- (3) Idaho National Engineering Laboratory, Idaho.

(c) Citizen advisory board

(1) At each defense nuclear facility for which the Secretary of Energy intends or is required to

develop a future use plan under this section and for which no citizen advisory board has been established, the Secretary shall establish a citizen advisory board.

(2) The Secretary may authorize the manager of a defense nuclear facility for which a future use plan is developed under this section (or, if there is no such manager, an appropriate official of the Department of Energy designated by the Secretary) to pay routine administrative expenses of a citizen advisory board established for that facility. Such payments shall be made from funds available to the Secretary for defense environmental cleanup activities necessary for national security programs.

(d) Requirement to consult with citizen advisory board

In developing a future use plan under this section with respect to a defense nuclear facility, the Secretary of Energy shall consult with a citizen advisory board established pursuant to subsection (c) or a similar advisory board already in existence as of September 23, 1996, for such facility, affected local governments (including any local future use redevelopment authorities), and other appropriate State agencies.

(e) 50-year planning period

A future use plan developed under this section shall cover a period of at least 50 years.

(f) Report

Not later than 60 days after completing development of a final plan for a site listed in subsection (b), the Secretary of Energy shall submit to Congress a report on the plan. The report shall describe the plan and contain such findings and recommendations with respect to the site as the Secretary considers appropriate.

(g) Savings provisions

(1) Nothing in this section, or in a future use plan developed under this section with respect to a defense nuclear facility, shall be construed as requiring any modification to a future use plan with respect to a defense nuclear facility that was developed before September 23, 1996.

(2) Nothing in this section may be construed to affect statutory requirements for a defense environmental cleanup activity or project or to modify or otherwise affect applicable statutory or regulatory defense environmental cleanup requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

(Pub. L. 107–314, div. D, title XLIV, § 4402, formerly Pub. L. 104–201, div. C, title XXXI, § 3153, Sept. 23, 1996, 110 Stat. 2839; renumbered Pub. L. 107–314, div. D, title XLIV, § 4402, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(g)(3), Nov. 24, 2003, 117 Stat. 1764; Pub. L. 113–66, div. C, title XXXI, § 3146(e)(2), Dec. 26, 2013, 127 Stat. 1076.)

CODIFICATION

Section was formerly set out as a note under section 7274k of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Pub. L. 113-66, §3146(e)(2)(A), substituted “defense environmental cleanup” for “environmental management program” in section catchline.

Subsec. (a). Pub. L. 113-66, §3146(e)(2)(B), substituted “defense environmental cleanup” for “environmental restoration and waste management”.

Subsec. (b)(2) to (4). Pub. L. 113-66, §3146(e)(2)(C), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: “Rocky Flats Plant, Golden, Colorado.”

Subsec. (c)(2). Pub. L. 113-66, §3146(e)(2)(D), substituted “for defense environmental cleanup” for “for program direction in carrying out environmental restoration and waste management”.

Subsec. (f). Pub. L. 113-66, §3146(e)(2)(E), (F), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text read as follows: “For each facility listed in subsection (b), the Secretary of Energy shall develop a draft future use plan by October 1, 1997, and a final future use plan by March 15, 1998.”

Subsec. (g). Pub. L. 113-66, §3146(e)(2)(F), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (g)(2). Pub. L. 113-66, §3146(e)(2)(G), substituted “a defense environmental cleanup” for “an environmental restoration or waste management” and “defense environmental cleanup” for “environmental restoration and waste management”.

Subsec. (h). Pub. L. 113-66, §3146(e)(2)(F), redesignated subsec. (h) as (g).

2003—Subsec. (d). Pub. L. 108-136, §3141(g)(3)(D)(i), substituted “September 23, 1996,” for “the date of the enactment of this Act”.

Subsec. (h)(1). Pub. L. 108-136, §3141(g)(3)(D)(ii), substituted “September 23, 1996” for “the date of the enactment of this Act”.

§ 2582a. Future-years defense environmental cleanup plan

(a) In general

The Secretary of Energy shall submit to Congress each year, at or about the same time that the President’s budget is submitted to Congress for a fiscal year under section 1105(a) of title 31, a future-years defense environmental cleanup plan that—

(1) reflects the estimated expenditures and proposed appropriations included in that budget for the Department of Energy for defense environmental cleanup; and

(2) covers a period that includes the fiscal year for which that budget is submitted and not less than the four succeeding fiscal years.

(b) Elements

Each future-years defense environmental cleanup plan required by subsection (a) shall contain the following:

(1) A detailed description of the projects and activities relating to defense environmental cleanup to be carried out during the period covered by the plan at the sites specified in subsection (c) and with respect to the activities specified in subsection (d).

(2) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support such projects and activities.

(3) With respect to each site specified in subsection (c), the following:

(A) A statement of each milestone included in an enforceable agreement governing cleanup and waste remediation for that site for each fiscal year covered by the plan.

(B) For each such milestone, a statement with respect to whether each such milestone will be met in each such fiscal year.

(C) For any milestone that will not be met, an explanation of why the milestone will not be met and the date by which the milestone is expected to be met.

(c) Sites specified

The sites specified in this subsection are the following:

(1) The Idaho National Laboratory, Idaho.

(2) The Waste Isolation Pilot Plant, Carlsbad, New Mexico.

(3) The Savannah River Site, Aiken, South Carolina.

(4) The Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(5) The Hanford Site, Richland, Washington.

(6) Any defense closure site of the Department of Energy.

(7) Any site of the National Nuclear Security Administration.

(d) Activities specified

The activities specified in this subsection are the following:

(1) Program support.

(2) Program direction.

(3) Safeguards and security.

(4) Technology development and deployment.

(5) Federal contributions to the Uranium Enrichment Decontamination and Decommissioning Fund established under section 2297g of title 42.

(Pub. L. 107-314, div. D, title XLIV, §4402A, as added Pub. L. 111-383, div. C, title XXXI, §3116(a), Jan. 7, 2011, 124 Stat. 4512; amended Pub. L. 113-66, div. C, title XXXI, §3146(e)(3), Dec. 26, 2013, 127 Stat. 1076.)

AMENDMENTS

2013—Pub. L. 113-66, §3146(e)(3)(A), substituted “cleanup” for “management” in section catchline.

Subsec. (a). Pub. L. 113-66, §3146(e)(3)(B)(i), substituted “cleanup” for “management” in introductory provisions.

Subsec. (a)(1). Pub. L. 113-66, §3146(e)(3)(B)(ii), substituted “defense environmental cleanup” for “environmental management”.

Subsec. (b). Pub. L. 113-66, §3146(e)(3)(C), substituted “cleanup” for “management” in introductory provisions and par. (1).

§ 2583. Integrated fissile materials management plan

(a) Plan

The Secretary of Energy shall develop a long-term plan for the integrated management of fissile materials by the Department of Energy. The plan shall—

(1) identify means of coordinating or integrating the responsibilities of the Office of Environmental Management, the Office of Nuclear Energy, and the Administration for the treatment, storage, and disposition of fissile materials, and for the waste streams containing fissile materials, in order to achieve budgetary and other efficiencies in the discharge of those responsibilities; and

(2) identify any expenditures necessary at the sites that are anticipated to have an en-

during mission for plutonium management in order to achieve the integrated management of fissile materials by the Department.

(b) Submittal to Congress

The Secretary shall submit the plan required by subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than March 31, 2014.

(Pub. L. 107-314, div. D, title XLIV, § 4403, formerly Pub. L. 106-65, div. C, title XXXI, § 3172, Oct. 5, 1999, 113 Stat. 948; renumbered Pub. L. 107-314, div. D, title XLIV, § 4403, by Pub. L. 108-136, div. C, title XXXI, § 3141(g)(4), Nov. 24, 2003, 117 Stat. 1764; Pub. L. 113-66, div. C, title XXXI, § 3146(e)(4), Dec. 26, 2013, 127 Stat. 1076.)

AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 113-66, § 3146(e)(4)(A), substituted “the Office of Nuclear Energy, and the Administration” for “the Office of Fissile Materials Disposition, the Office of Nuclear Energy, and the Office of Defense Programs” and “storage,” for “storage”.

Subsec. (b). Pub. L. 113-66, § 3146(e)(4)(B), substituted “March 31, 2014” for “March 31, 2000”.

§ 2584. Repealed. Pub. L. 113-66, div. C, title XXXI, § 3146(e)(5), Dec. 26, 2013, 127 Stat. 1076

Section, Pub. L. 107-314, div. D, title XLIV, § 4404, formerly Pub. L. 103-160, div. C, title XXXI, § 3153, Nov. 30, 1993, 107 Stat. 1950; Pub. L. 103-337, div. C, title XXXI, § 3160(b)-(d), Oct. 5, 1994, 108 Stat. 3094; Pub. L. 104-201, div. C, title XXXI, § 3152, Sept. 23, 1996, 110 Stat. 2839; Pub. L. 105-85, div. C, title XXXI, § 3160, Nov. 18, 1997, 111 Stat. 2048; renumbered Pub. L. 107-314, div. D, title XLIV, § 4404, by Pub. L. 108-136, div. C, title XXXI, § 3141(g)(5), Nov. 24, 2003, 117 Stat. 1765, related to baseline environmental management reports.

§ 2585. Accelerated schedule for defense environmental cleanup activities

(a) Accelerated cleanup

The Secretary of Energy shall accelerate the schedule for defense environmental cleanup activities and projects for a site at a Department of Energy defense nuclear facility if the Secretary determines that such an accelerated schedule will achieve meaningful, long-term cost savings to the Federal Government and could substantially accelerate the release of land for local reuse.

(b) Consideration of factors

In making a determination under subsection (a), the Secretary shall consider the following:

- (1) The cost savings achievable by the Federal Government.
- (2) The potential for reuse of the site.
- (3) The risks that the site poses to local health and safety.
- (4) The proximity of the site to populated areas.

(c) Savings provision

Nothing in this section may be construed to affect a specific statutory requirement for a specific defense environmental cleanup activity or project or to modify or otherwise affect applicable statutory or regulatory defense environmental cleanup requirements, including substantive standards intended to protect public health and the environment.

(Pub. L. 107-314, div. D, title XLIV, § 4405, formerly Pub. L. 104-106, div. C, title XXXI, § 3156, Feb. 10, 1996, 110 Stat. 625; renumbered Pub. L. 107-314, div. D, title XLIV, § 4405, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(g)(6), Nov. 24, 2003, 117 Stat. 1765; Pub. L. 113-66, div. C, title XXXI, § 3146(e)(6), Dec. 26, 2013, 127 Stat. 1076.)

CODIFICATION

Section was formerly set out as a note under section 7274k of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 113-66, § 3146(e)(6)(A), substituted “defense environmental cleanup” for “environmental restoration and waste management” in section catchline.

Subsec. (a). Pub. L. 113-66, § 3146(e)(6)(B), substituted “defense environmental cleanup” for “environmental restoration and waste management”.

Subsec. (b)(2) to (5). Pub. L. 113-66, § 3146(e)(6)(C), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2), which read as follows: “The amount of time for completion of environmental restoration and waste management activities and projects at the site that can be reduced from the time specified for completion of such activities and projects in the baseline environmental management report required to be submitted for 1995 under section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 7274k), the predecessor provision to section 2584 of this title.”

Subsecs. (c), (d). Pub. L. 113-66, § 3146(e)(6)(D)-(F), redesignated subsec. (d) as (c), substituted “specific defense environmental cleanup” for “specific environmental restoration or waste management” and “regulatory defense environmental cleanup” for “regulatory environmental restoration and waste management”, and struck out former subsec. (c) which required Secretary to report on each site for which schedule for environmental restoration and waste management activities had been accelerated.

2003—Subsec. (b)(2). Pub. L. 108-136, § 3141(g)(6)(D), inserted “, the predecessor provision to section 2584 of this title” before period at end.

§ 2586. Defense environmental cleanup technology program

(a) Establishment of program

The Secretary of Energy shall establish and carry out a program of research for the development of technologies useful for—

- (1) the reduction of environmental hazards and contamination resulting from defense waste; and
- (2) environmental restoration of inactive defense waste disposal sites.

(b) Definitions

As used in this section:

(1) The term “defense waste” means waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term “inactive defense waste disposal site” means any site (including any facility) under the control or jurisdiction of the Secretary of Energy which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

(Pub. L. 107-314, div. D, title XLIV, § 4406, formerly Pub. L. 101-189, div. C, title XXXI, § 3141,

Nov. 29, 1989, 103 Stat. 1679; Pub. L. 105-85, div. C, title XXXI, § 3152(g), Nov. 18, 1997, 111 Stat. 2042; renumbered Pub. L. 107-314, div. D, title XLIV, § 4406, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(g)(7), Nov. 24, 2003, 117 Stat. 1765; Pub. L. 113-66, div. C, title XXXI, § 3146(e)(7), Dec. 26, 2013, 127 Stat. 1077; Pub. L. 113-291, div. C, title XXXI, § 3142(g), Dec. 19, 2014, 128 Stat. 3900.)

CODIFICATION

Section was formerly classified to section 7274a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291 substituted “useful for—” for “useful for” before par. (1) designation and “; and” for “, and” at end of par. (1) and realigned margins of pars. (1) and (2).

2013—Pub. L. 113-66, § 3146(e)(7)(A), substituted “environmental” for “waste” in section catchline.

Subsecs. (b), (c). Pub. L. 113-66, § 3146(e)(7)(B), (C), which directed amendment of section by striking subsecs. (b) and (c) and redesignating subsec. (d) as (b), was executed by striking subsec. (b), which related to coordination of research activities, and redesignating subsec. (c) as (b) to reflect the probable intent of Congress and the amendment by Pub. L. 105-85, § 3152(g), which redesignated former subsec. (d) as (c). See 1997 Amendment note below.

2003—Pub. L. 108-136, § 3141(g)(7)(D), made technical amendment to section catchline.

1997—Subsecs. (c), (d). Pub. L. 105-85 redesignated subsec. (d) as (c) and struck out former subsec. (c) which required Secretary of Energy to submit to Congress not later than Apr. 1 each year a report on research activities of Department of Energy for development of technologies referred to in subsec. (a).

§ 2587. Report on defense environmental cleanup expenditures

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Energy shall submit to Congress a report on how the defense environmental cleanup funds of the Department of Energy were expended during the fiscal year preceding the fiscal year during which the budget is submitted. The report shall include details on expenditures by operations office, installation, budget category, and activity. The report also shall include any schedule changes or modifications to planned activities for the fiscal year in which the budget is submitted.

(Pub. L. 107-314, div. D, title XLIV, § 4407, formerly Pub. L. 101-510, div. C, title XXXI, § 3134, Nov. 5, 1990, 104 Stat. 1833; renumbered Pub. L. 107-314, div. D, title XLIV, § 4407, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(g)(8), Nov. 24, 2003, 117 Stat. 1765; Pub. L. 113-66, div. C, title XXXI, § 3146(e)(8), Dec. 26, 2013, 127 Stat. 1077.)

CODIFICATION

Section was formerly classified to section 7274c of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 113-66 substituted “defense environmental cleanup” for “environmental restoration” in section catchline and “defense environmental cleanup

funds” for “environmental restoration and waste management funds for defense activities” in text.

2003—Pub. L. 108-136, § 3141(g)(8)(D), made technical amendment to section catchline.

§ 2588. Public participation in planning for defense environmental cleanup

The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and attorneys general of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for defense environmental cleanup activities at Department of Energy defense nuclear facilities.

(Pub. L. 107-314, div. D, title XLIV, § 4408, formerly Pub. L. 103-337, div. C, title XXXI, § 3160(e), Oct. 5, 1994, 108 Stat. 3095; renumbered Pub. L. 107-314, div. D, title XLIV, § 4408, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(g)(9), Nov. 24, 2003, 117 Stat. 1765; Pub. L. 113-66, div. C, title XXXI, § 3146(e)(9), Dec. 26, 2013, 127 Stat. 1077.)

CODIFICATION

Section was formerly set out as a note under section 7274g of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 113-66 substituted “defense environmental cleanup” for “environmental restoration and waste management at defense nuclear facilities” in section catchline and substituted “attorneys general” for “Attorneys General” and “defense environmental cleanup activities” for “environmental restoration and waste management” in text.

2003—Pub. L. 108-136, § 3141(g)(9)(C), substituted “Public participation in planning for environmental restoration and waste management at defense nuclear facilities” for “Public participation in planning” in section catchline.

§ 2589. Policy of Department of Energy regarding future defense environmental management matters

(a) Policy required

(1) Commencing not later than October 1, 2005, the Secretary of Energy shall have in effect a policy for carrying out future defense environmental management matters of the Department of Energy. The policy shall specify each officer within the Department with responsibilities for carrying out that policy and, for each such officer, the nature and extent of those responsibilities.

(2) In paragraph (1), the term “future defense environmental management matter” means any environmental cleanup project, decontamination and decommissioning project, waste management project, or related activity that arises out of the activities of the Department in carrying out programs necessary for national security and is to be commenced after November 24, 2003. However, such term does not include any such project or activity the responsibility for which has been assigned, as of November 24, 2003, to the Environmental Management program of the Department.

(b) Reflection in budget

For fiscal year 2006 and each fiscal year thereafter, the Secretary shall ensure that the budget

justification materials submitted to Congress in support of the Department of Energy budget for such fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) reflect the policy required by subsection (a).

(c) Consultation

The Secretary shall carry out this section in consultation with the Administrator for Nuclear Security and the Under Secretary of Energy for Energy, Science, and Environment.

(d) Report

The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31) a report on the policy that the Secretary plans to have in effect under subsection (a) as of October 1, 2005. The report shall specify the officers and responsibilities referred to in subsection (a).

(Pub. L. 108–136, div. C, title XXXI, §3132, Nov. 24, 2003, 117 Stat. 1750.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Atomic Energy Defense Act which comprises this chapter.

PART B—CLOSURE OF FACILITIES

§ 2601. Repealed. Pub. L. 113–66, div. C, title XXXI, §3146(e)(10), Dec. 26, 2013, 127 Stat. 1077

Section, Pub. L. 107–314, div. D, title XLIV, §4421, formerly Pub. L. 104–201, div. C, title XXXI, §3143, Sept. 23, 1996, 110 Stat. 2836; renumbered Pub. L. 107–314, div. D, title XLIV, §4421, and amended Pub. L. 108–136, div. C, title XXXI, §3141(g)(11), Nov. 24, 2003, 117 Stat. 1766, related to projects to accelerate closure activities at defense nuclear facilities.

§ 2602. Reports in connection with permanent closures of Department of Energy defense nuclear facilities

(a) Training and job placement services plan

Not later than 120 days before a Department of Energy defense nuclear facility permanently ceases all production and processing operations, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the defense environmental cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) Closure report

Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

- (1) a complete survey of environmental problems at the facility;
- (2) budget quality data indicating the cost of defense environmental cleanup activities at the facility; and

- (3) a discussion of the proposed cleanup schedule.

(Pub. L. 107–314, div. D, title XLIV, §4422, formerly Pub. L. 101–189, div. C, title XXXI, §3156, Nov. 29, 1989, 103 Stat. 1683; renumbered Pub. L. 107–314, div. D, title XLIV, §4422, and amended Pub. L. 108–136, div. C, title XXXI, §3141(g)(12), Nov. 24, 2003, 117 Stat. 1766; Pub. L. 113–66, div. C, title XXXI, §3146(a)(2)(E), (e)(11), Dec. 26, 2013, 127 Stat. 1073, 1077.)

CODIFICATION

Section was formerly classified to section 7274b of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

PRIOR PROVISIONS

A prior section 2611, Pub. L. 107–314, div. D, title XLIV, §4431, formerly Pub. L. 105–85, div. C, title XXXI, §3132, Nov. 18, 1997, 111 Stat. 2034; renumbered Pub. L. 107–314, div. D, title XLIV, §4431, and amended Pub. L. 108–136, div. C, title XXXI, §3141(g)(14), Nov. 24, 2003, 117 Stat. 1767, related to defense environmental management privatization projects, prior to repeal by Pub. L. 113–66, div. C, title XXXI, §3146(e)(12), Dec. 26, 2013, 127 Stat. 1078.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–66, §3146(e)(11)(A), substituted “shall submit” for “must submit” and “defense environmental cleanup” for “environmental remediation and cleanup”.

Pub. L. 113–66, §3146(a)(2)(E), struck out “(as defined in section 2286g of title 42)” after “defense nuclear facility”.

Subsec. (b)(2). Pub. L. 113–66, §3146(e)(11)(B), substituted “defense environmental cleanup activities” for “environmental restoration and other remediation and cleanup efforts”.

2003—Pub. L. 108–136, §3141(g)(12)(D), made technical amendment to section catchline.

DEFENSE SITE ACCELERATION COMPLETION

Pub. L. 108–375, div. C, title XXXI, §3116, Oct. 28, 2004, 118 Stat. 2162, provided that:

“(a) IN GENERAL.—Notwithstanding the provisions of the Nuclear Waste Policy Act of 1982 [42 U.S.C. 10101 et seq.], the requirements of section 202 of the Energy Reorganization Act of 1974 [42 U.S.C. 5842], and other laws that define classes of radioactive waste, with respect to material stored at a Department of Energy site at which activities are regulated by a covered State pursuant to approved closure plans or permits issued by the State, the term ‘high-level radioactive waste’ does not include radioactive waste resulting from the reprocessing of spent nuclear fuel that the Secretary of Energy (in this section referred to as the ‘Secretary’), in consultation with the Nuclear Regulatory Commission (in this section referred to as the ‘Commission’), determines—

“(1) does not require permanent isolation in a deep geologic repository for spent fuel or high-level radioactive waste;

“(2) has had highly radioactive radionuclides removed to the maximum extent practical; and

“(3)(A) does not exceed concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, and will be disposed of—

“(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations; and

“(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; or

“(B) exceeds concentration limits for Class C low-level waste as set out in section 61.55 of title 10, Code of Federal Regulations, but will be disposed of—

“(i) in compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations;

“(ii) pursuant to a State-approved closure plan or State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this section; and

“(iii) pursuant to plans developed by the Secretary in consultation with the Commission.

“(b) MONITORING BY NUCLEAR REGULATORY COMMISSION.—(1) The Commission shall, in coordination with the covered State, monitor disposal actions taken by the Department of Energy pursuant to subparagraphs (A) and (B) of subsection (a)(3) for the purpose of assessing compliance with the performance objectives set out in subpart C of part 61 of title 10, Code of Federal Regulations.

“(2) If the Commission considers any disposal actions taken by the Department of Energy pursuant to those subparagraphs to be not in compliance with those performance objectives, the Commission shall, as soon as practicable after discovery of the noncompliant conditions, inform the Department of Energy, the covered State, and the following congressional committees:

“(A) The Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Appropriations of the House of Representatives.

“(B) The Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Appropriations of the Senate.

“(3) For fiscal year 2005, the Secretary shall, from amounts available for defense site acceleration completion, reimburse the Commission for all expenses, including salaries, that the Commission incurs as a result of performance under subsection (a) and this subsection for fiscal year 2005. The Department of Energy and the Commission may enter into an interagency agreement that specifies the method of reimbursement. Amounts received by the Commission for performance under subsection (a) and this subsection may be retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, United States Code, and shall remain available until expended.

“(4) For fiscal years after 2005, the Commission shall include in the budget justification materials submitted to Congress in support of the Commission budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) the amounts required, not offset by revenues, for performance under subsection (a) and this subsection.

“(c) INAPPLICABILITY TO CERTAIN MATERIALS.—Subsection (a) shall not apply to any material otherwise covered by that subsection that is transported from the covered State.

“(d) COVERED STATES.—For purposes of this section, the following States are covered States:

“(1) The State of South Carolina.

“(2) The State of Idaho.

“(e) CONSTRUCTION.—(1) Nothing in this section shall impair, alter, or modify the full implementation of any Federal Facility Agreement and Consent Order or other applicable consent decree for a Department of Energy site.

“(2) Nothing in this section establishes any precedent or is binding on the State of Washington, the State of Oregon, or any other State not covered by subsection (d) for the management, storage, treatment, and disposition of radioactive and hazardous materials.

“(3) Nothing in this section amends the definition of ‘transuranic waste’ or regulations for repository disposal of transuranic waste pursuant to the Waste Isolation Pilot Plant Land Withdrawal Act [Pub. L. 102-579, 106 Stat. 4777] or part 191 of title 40, Code of Federal Regulations.

“(4) Nothing in this section shall be construed to affect in any way the obligations of the Department of Energy to comply with section 4306A of the Atomic Energy Defense Act (50 U.S.C. 2567).

“(5) Nothing in this section amends the West Valley Demonstration Act [Pub. L. 96-368] (42 U.S.C. 2121a [2021a] note).

“(f) JUDICIAL REVIEW.—Judicial review shall be available in accordance with chapter 7 of title 5, United States Code, for the following:

“(1) Any determination made by the Secretary or any other agency action taken by the Secretary pursuant to this section.

“(2) Any failure of the Commission to carry out its responsibilities under subsection (b).”

SANDIA NATIONAL LABORATORIES

Pub. L. 108-199, div. H, § 127, Jan. 23, 2004, 118 Stat. 440, provided that: “Funds appropriated in this, or any other Act hereafter, may not be obligated to pay, on behalf of the United States or a contractor or subcontractor of the United States, to post a bond or fulfill any other financial responsibility requirement relating to closure or post-closure care and monitoring of Sandia National Laboratories and properties held or managed by Sandia National Laboratories prior to implementation of closure or post-closure monitoring. The State of New Mexico or any other entity may not enforce against the United States or a contractor or subcontractor of the United States, in this year or any other fiscal year, a requirement to post bond or any other financial responsibility requirement relating to closure or post-closure care and monitoring of Sandia National Laboratories in New Mexico and properties held or managed by Sandia National Laboratories in New Mexico.”

PART C—HANFORD RESERVATION, WASHINGTON

PRIOR PROVISIONS

A prior part C, consisting of section 2611, related to privatization, prior to repeal by Pub. L. 113-66, div. C, title XXXI, § 3146(e)(12), Dec. 26, 2013, 127 Stat. 1078.

AMENDMENTS

2013—Pub. L. 113-66, div. C, title XXXI, § 3146(e)(16)(C), Dec. 26, 2013, 127 Stat. 1078, redesignated part D as C.

§ 2621. Safety measures for waste tanks at Hanford Nuclear Reservation

(a) Identification and monitoring of tanks

Not later than February 3, 1991, the Secretary of Energy shall identify which single-shelled or double-shelled high-level nuclear waste tanks at the Hanford Nuclear Reservation, Richland, Washington, may have a serious potential for release of high-level waste due to uncontrolled increases in temperature or pressure. After completing such identification, the Secretary shall determine whether continuous monitoring is being carried out to detect a release or excessive temperature or pressure at each tank so identified. If such monitoring is not being carried out, as soon as practicable the Secretary shall install such monitoring, but only if a type of monitoring that does not itself increase the danger of a release can be installed.

(b) Action plans

Not later than March 5, 1991, the Secretary of Energy shall develop action plans to respond to excessive temperature or pressure or a release from any tank identified under subsection (a).

(c) Prohibition

Beginning March 5, 1991, no additional high-level nuclear waste (except for small amounts removed and returned to a tank for analysis) may be added to a tank identified under sub-

section (a) unless the Secretary determines that no safer alternative than adding such waste to the tank currently exists or that the tank does not pose a serious potential for release of high-level nuclear waste.

(Pub. L. 107-314, div. D, title XLIV, §4441, formerly Pub. L. 101-510, div. C, title XXXI, §3137, Nov. 5, 1990, 104 Stat. 1833; renumbered Pub. L. 107-314, div. D, title XLIV, §4441, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(16), Nov. 24, 2003, 117 Stat. 1767; Pub. L. 113-291, div. C, title XXXI, §3142(h), Dec. 19, 2014, 128 Stat. 3900.)

AMENDMENTS

2014—Subsec. (d). Pub. L. 113-291 struck out subsec. (d). Text read as follows: “Not later than May 5, 1991, the Secretary shall submit to Congress a report on actions taken to promote tank safety, including actions taken pursuant to this section, and the Secretary’s timetable for resolving outstanding issues on how to handle the waste in such tanks.”

2003—Pub. L. 108-136, §3141(g)(16)(D)(i), made technical amendment to section catchline.

Subsec. (a). Pub. L. 108-136, §3141(g)(16)(D)(ii), substituted “Not later than February 3, 1991,” for “Within 90 days after the date of the enactment of this Act.”

Subsec. (b). Pub. L. 108-136, §3141(g)(16)(D)(iii), substituted “Not later than March 5, 1991,” for “Within 120 days after the date of the enactment of this Act.”

Subsec. (c). Pub. L. 108-136, §3141(g)(16)(D)(iv), substituted “Beginning March 5, 1991,” for “Beginning 120 days after the date of the enactment of this Act.”

Subsec. (d). Pub. L. 108-136, §3141(g)(16)(D)(v), substituted “Not later than May 5, 1991,” for “Within six months after the date of the enactment of this Act.”

§ 2622. Hanford waste tank cleanup program reforms

(a) Establishment of Office of River Protection

The Secretary of Energy shall establish an office at the Hanford Reservation, Richland, Washington, to be known as the “Office of River Protection” (in this section referred to as the “Office”).

(b) Management and responsibilities of Office

(1) The Office shall be headed by a senior official of the Department of Energy, who shall report to the Assistant Secretary of Energy for Environmental Management.

(2) The head of the Office shall be responsible for managing all aspects of the River Protection Project, Richland, Washington, including Hanford Tank Farm operations and the Waste Treatment Plant.

(3)(A) The Assistant Secretary of Energy for Environmental Management shall delegate in writing responsibility for the management of the River Protection Project, Richland, Washington, to the head of the Office.

(B) Such delegation shall include, at a minimum, authorities for contracting, financial management, safety, and general program management that are equivalent to the authorities of managers of other operations offices of the Department of Energy.

(C) The head of the Office shall, to the maximum extent possible, coordinate all activities of the Office with the manager of the Richland Operations Office of the Department of Energy.

(c) Department responsibilities

The Secretary shall provide the head of the Office with the resources and personnel necessary

to carry out the responsibilities specified in subsection (b)(2).

(d) Notification

The Assistant Secretary of Energy for Environmental Management shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives written notification detailing any changes in the roles, responsibilities, and reporting relationships that involve the Office.

(e) Termination

The Office shall terminate on September 30, 2019. The Office may be extended beyond that date if the Assistant Secretary of Energy for Environmental Management determines in writing that termination would disrupt effective management of the Hanford Tank Farm operations.

(Pub. L. 107-314, div. D, title XLIV, §4442, formerly Pub. L. 105-261, div. C, title XXXI, §3139, Oct. 17, 1998, 112 Stat. 2250; Pub. L. 106-398, §1 [div. C, title XXXI, §3141(b)-(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A-463; Pub. L. 107-107, div. C, title XXXI, §3135, Dec. 28, 2001, 115 Stat. 1368; renumbered Pub. L. 107-314, div. D, title XLIV, §4442, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(17), Nov. 24, 2003, 117 Stat. 1767; Pub. L. 112-81, div. C, title XXXI, §3113, Dec. 31, 2011, 125 Stat. 1709; Pub. L. 113-66, div. C, title XXXI, §3146(e)(13), Dec. 26, 2013, 127 Stat. 1078.)

AMENDMENTS

2013—Subsec. (b)(2). Pub. L. 113-66 substituted “responsible for managing all aspects” for “responsible for managing all aspects”.

2011—Subsec. (b)(2). Pub. L. 112-81, §3113(1), substituted “all aspects of the River Protection Project, Richland, Washington, including Hanford Tank Farm operations and the Waste Treatment Plant” for “consistent with the policy direction established by the Department, all aspects of the River Protection Project, Richland, Washington”.

Subsec. (d). Pub. L. 112-81, §3113(2), amended subsec. (d) generally. Prior to amendment, text read as follows: “The Assistant Secretary of Energy for Environmental Management shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than November 29, 2000, a copy of the delegation of authority required by subsection (b)(3).”

Subsecs. (e), (f). Pub. L. 112-81, §3113(3), added subsec. (e) and struck out former subsecs. (e) and (f), which, respectively, required the Secretary to submit a progress report not later than 2 years after the commencement of Office operations and provided for termination of the Office.

2003—Subsec. (d). Pub. L. 108-136, §3141(g)(17)(D), substituted “November 29, 2000,” for “30 days after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.”

2001—Subsec. (f). Pub. L. 107-107 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows:

“(1) The Office shall terminate 5 years after the commencement of operations under this section unless the Secretary determines that termination on that date would disrupt effective management of the Hanford Tank Farm operations.

“(2) The Secretary shall notify, in writing, the committees referred to in subsection (d) of a determination under paragraph (1).”

2000—Subsec. (b). Pub. L. 106-398, §1 [div. C, title XXXI, §3141(b)], substituted “managing, consistent with the policy direction established by the Department, all aspects of the River Protection Project, Rich-

land, Washington” for “managing all aspects of the Tank Waste Remediation System (also referred to as the Hanford Tank Farm operations), including those portions under privatization contracts, of the Department of Energy at Hanford” in par. (2) and added par. (3).

Subsec. (c). Pub. L. 106-398, §1 [div. C, title XXXI, §3141(c)], substituted “head” for “manager” and “to carry out the responsibilities specified in subsection (b)(2)” for “to manage the tank waste privatization program at Hanford in an efficient and streamlined manner”.

Subsec. (d). Pub. L. 106-398, §1 [div. C, title XXXI, §3141(d)], amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: “Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committees on Commerce and on National Security of the House of Representatives an integrated management plan for all aspects of the Hanford Tank Farm operations, including the roles, responsibilities, and reporting relationships of the Office.”

§ 2623. River Protection Project

The tank waste remediation system environmental project, Richland, Washington, including all programs relating to the retrieval and treatment of tank waste at the site at Hanford, Washington, under the management of the Office of River Protection, shall be known and designated as the “River Protection Project”. Any reference to that project in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the River Protection Project.

(Pub. L. 107-314, div. D, title XLIV, §4443, formerly Pub. L. 106-398, §1 [div. C, title XXXI, §3141(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-462; renumbered Pub. L. 107-314, div. D, title XLIV, §4443, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(18), Nov. 24, 2003, 117 Stat. 1768.)

AMENDMENTS

2003—Pub. L. 108-136, §3141(g)(18)(C), inserted section catchline and struck out former subsec. heading.

§ 2624. Funding for termination costs of River Protection Project, Richland, Washington

The Secretary of Energy may not use appropriated funds to establish a reserve for the payment of any costs of termination of any contract relating to the River Protection Project, Richland, Washington (as designated by section 2623 of this title), that is terminated after October 30, 2000. Such costs may be paid from—

- (1) appropriations originally available for the performance of the contract concerned;
- (2) appropriations currently available for privatization initiatives in carrying out defense environmental cleanup activities necessary for national security programs, and not otherwise obligated; or
- (3) funds appropriated specifically for the payment of such costs.

(Pub. L. 107-314, div. D, title XLIV, §4444, formerly Pub. L. 106-398, §1 [div. C, title XXXI, §3131], Oct. 30, 2000, 114 Stat. 1654, 1654A-454; renumbered Pub. L. 107-314, div. D, title XLIV, §4444, and amended Pub. L. 108-136, div. C, title XXXI, §3141(g)(19), Nov. 24, 2003, 117 Stat. 1768; Pub. L. 113-66, div. C, title XXXI, §3146(e)(14), Dec. 26, 2013, 127 Stat. 1078.)

AMENDMENTS

2013—Par. (2). Pub. L. 113-66 substituted “defense environmental cleanup” for “environmental restoration and waste management”.

2003—Pub. L. 108-136, §3141(g)(19)(D), in introductory provisions, substituted “section 2623 of this title” for “section 3141” and “October 30, 2000” for “the date of the enactment of this Act”.

§ 2625. Plan for tank farm waste at Hanford Nuclear Reservation

(a) Plan

Not later than June 1, 2014, the Secretary of Energy shall submit to the congressional defense committees a plan for the initial activities (as defined in subsection (d)) for the Waste Treatment and Immobilization Plant and any related, required infrastructure facilities.

(b) Matters included

The plan under subsection (a) shall include the following:

- (1) A list of significant requirements needed for the initial activities.
- (2) A schedule of significant activities needed to carry out the initial activities.
- (3) Actions required to accelerate, to the extent possible, the treatment of lower risk, low-activity waste while continuing efforts to resolve the technical challenges associated with higher risk, high-activity waste.
- (4) A description of how the Secretary will—
 - (A) provide adequate protection to workers and the public under the plan; and
 - (B) incorporate into the plan any significant new science and technical information that was not available before the development of the plan.

(c) Determinations

(1) For each significant requirement identified by the Secretary under subsection (b)(1), the Secretary shall include in the plan submitted under subsection (a) a determination regarding whether such requirement is finalized and will be used to inform the initial activities.

(2) For each significant requirement that the Secretary cannot make a finalized determination for under paragraph (1) by the date on which the plan under subsection (a) is submitted to the congressional defense committees, the Secretary shall—

- (A) include in the plan—
 - (i) a description of the requirement;
 - (ii) a list of significant activities required to finalize the requirement; and
 - (iii) the date on which the Secretary anticipates making such determination; and

(B) once the Secretary makes a determination that such a significant requirement is finalized, submit to such committees notification that the requirement is finalized and will be used to inform the initial activities.

(3)(A) Notwithstanding any determination made under paragraph (1) with respect to a significant requirement identified by the Secretary under subsection (b)(1)—

- (i) the Secretary shall change a requirement if necessary to provide adequate protection to workers and the public; and
- (ii) the Secretary may change a requirement if the Secretary determines such change is necessary.

(B) If the Secretary authorizes a change to a requirement under subparagraph (A) that will have a significant material effect on the schedule or cost of the initial activities, the Secretary shall promptly notify the congressional defense committees of such change.

(C) The authority of the Secretary under this paragraph may be delegated only to the Deputy Secretary of Energy.

(d) Initial activities defined

In this section, the term “initial activities” means activities necessary to start the operations of the Waste Treatment and Immobilization Plant at the Hanford Tank Farms of the Hanford Nuclear Reservation, Richland, Washington, with respect to the design, construction, and operating of the Waste Treatment and Immobilization Plant and any related, required infrastructure facilities.

(Pub. L. 107–314, div. D, title XLIV, §4445, as added Pub. L. 113–66, div. C, title XXXI, §3127(a), Dec. 26, 2013, 127 Stat. 1064.)

PART D—SAVANNAH RIVER SITE, SOUTH CAROLINA

PRIOR PROVISIONS

A prior part D, consisting of sections 2621 to 2625, was redesignated part C of this subchapter by Pub. L. 113–66, div. C, title XXXI, §3146(e)(16)(C), Dec. 26, 2013, 127 Stat. 1078.

AMENDMENTS

2013—Pub. L. 113–66, div. C, title XXXI, §3146(e)(16)(C), Dec. 26, 2013, 127 Stat. 1078, redesignated part E as D.

§ 2631. Accelerated schedule for isolating high-level nuclear waste at the Defense Waste Processing Facility, Savannah River Site

The Secretary of Energy shall accelerate the schedule for the isolation of high-level nuclear waste in glass canisters at the Defense Waste Processing Facility at the Savannah River Site, South Carolina, if the Secretary determines that the acceleration of such schedule—

- (1) will achieve long-term cost savings to the Federal Government; and
- (2) could accelerate the removal and isolation of high-level nuclear waste from long-term storage tanks at the site.

(Pub. L. 107–314, div. D, title XLIV, §4451, formerly Pub. L. 104–201, div. C, title XXXI, §3141, Sept. 23, 1996, 110 Stat. 2834; renumbered Pub. L. 107–314, div. D, title XLIV, §4451, by Pub. L. 108–136, div. C, title XXXI, §3141(g)(21), Nov. 24, 2003, 117 Stat. 1769.)

§ 2632. Multi-year plan for clean-up

The Secretary of Energy shall develop and implement a multi-year plan for the clean-up of nuclear waste at the Savannah River Site that results, or has resulted, from the following:

- (1) Nuclear weapons activities carried out at the site.
- (2) The processing, treating, packaging, and disposal of Department of Energy domestic and foreign spent nuclear fuel rods at the site.

(Pub. L. 107–314, div. D, title XLIV, §4452, formerly Pub. L. 104–201, div. C, title XXXI,

§3142(e), Sept. 23, 1996, 110 Stat. 2836; renumbered Pub. L. 107–314, div. D, title XLIV, §4452, by Pub. L. 108–136, div. C, title XXXI, §3141(g)(22), Nov. 24, 2003, 117 Stat. 1769.)

AMENDMENTS

2003—Pub. L. 108–136, §3141(g)(22)(C), inserted section catchline, struck out former subsec. heading, and inserted in text “of Energy” after “The Secretary”.

§ 2633. Continuation of processing, treatment, and disposal of legacy nuclear materials

The Secretary of Energy shall continue operations and maintain a high state of readiness at the H-canyon facility at the Savannah River Site, Aiken, South Carolina, and shall provide technical staff necessary to operate and so maintain such facility.

(Pub. L. 107–314, div. D, title XLIV, §4453, formerly Pub. L. 106–398, §1 [div. C, title XXXI, §3137(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–460; renumbered Pub. L. 107–314, div. D, title XLIV, §4453, and amended Pub. L. 108–136, div. C, title XXXI, §§3115(a), 3141(g)(23)(A), Nov. 24, 2003, 117 Stat. 1745, 1769.)

AMENDMENTS

2003—Pub. L. 108–136, §3141(g)(23)(A)(iii), inserted section catchline and struck out former subsec. heading.

Pub. L. 108–136, §3115(a), substituted “H-canyon facility” for “F-canyon and H-canyon facilities” and “such facility” for “such facilities”.

§§ 2634 to 2637. Repealed. Pub. L. 113–66, div. C, title XXXI, §3146(e)(15), Dec. 26, 2013, 127 Stat. 1078

Section 2634, Pub. L. 107–314, div. D, title XLIV, §4453A, formerly Pub. L. 106–65, div. C, title XXXI, §3132, Oct. 5, 1999, 113 Stat. 925; renumbered Pub. L. 107–314, div. D, title XLIV, §4453A, by Pub. L. 108–136, div. C, title XXXI, §3141(g)(23)(B), Nov. 24, 2003, 117 Stat. 1769, related to continuation of processing, treatment, and disposition of legacy nuclear materials.

Section 2635, Pub. L. 107–314, div. D, title XLIV, §4453B, formerly Pub. L. 105–261, div. C, title XXXI, §3135, Oct. 17, 1998, 112 Stat. 2248; renumbered Pub. L. 107–314, div. D, title XLIV, §4453B, by Pub. L. 108–136, div. C, title XXXI, §3141(g)(23)(C), Nov. 24, 2003, 117 Stat. 1770, related to continuation of processing, treatment, and disposition of legacy nuclear materials.

Section 2636, Pub. L. 107–314, div. D, title XLIV, §4453C, formerly Pub. L. 105–85, div. C, title XXXI, §3136(b), Nov. 18, 1997, 111 Stat. 2038; renumbered Pub. L. 107–314, div. D, title XLIV, §4453C, by Pub. L. 108–136, div. C, title XXXI, §3141(g)(23)(D), Nov. 24, 2003, 117 Stat. 1770, related to continuation of processing, treatment, and disposal of legacy nuclear materials.

Section 2637, Pub. L. 107–314, div. D, title XLIV, §4453D, formerly Pub. L. 104–201, div. C, title XXXI, §3142(f), Sept. 23, 1996, 110 Stat. 2836; renumbered Pub. L. 107–314, div. D, title XLIV, §4453D, and amended Pub. L. 108–136, div. C, title XXXI, §3141(g)(23)(E), Nov. 24, 2003, 117 Stat. 1770, related to continuation of processing, treatment, and disposal of legacy nuclear materials.

§ 2638. Limitation on use of funds for decommissioning F-canyon facility

No amounts authorized to be appropriated or otherwise made available for the Department of Energy by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act may be obligated or expended for pur-

poses of commencing the decommissioning of the F-canyon facility at the Savannah River Site until the Secretary of Energy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and the Defense Nuclear Facilities Safety Board, a report setting forth—

(1) an assessment of whether or not all materials present in the F-canyon facility as of the date of the report that required stabilization have been safely stabilized as of that date;

(2) an assessment of whether or not the requirements applicable to the F-canyon facility to meet the future needs of the United States for fissile materials disposition can be met through full use of the H-canyon facility at the Savannah River Site; and

(3) if it appears that one or more of the requirements described in paragraph (2) cannot be met through full use of the H-canyon facility—

(A) an identification by the Secretary of each such requirement that cannot be met through full use of the H-canyon facility; and

(B) for each requirement so identified, the reasons why such requirement cannot be met through full use of the H-canyon facility and a description of the alternative capability for fissile materials disposition that is needed to meet such requirement.

(Pub. L. 107-314, div. D, title XLIV, §4454, formerly Pub. L. 106-398, §1 [div. C, title XXXI, §3137(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-460; renumbered Pub. L. 107-314, div. D, title XLIV, §4454, and amended Pub. L. 108-136, div. C, title XXXI, §§3115(b), 3141(g)(24), Nov. 24, 2003, 117 Stat. 1745, 1770; Pub. L. 113-291, div. C, title XXXI, §3142(i), Dec. 19, 2014, 128 Stat. 3900.)

REFERENCES IN TEXT

The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, referred to in text, is Pub. L. 106-398, §1 [H.R. 5408], Oct. 30, 2000, 114 Stat. 1654, 1654A-1, as amended. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2014—Pars. (1), (2). Pub. L. 113-291 inserted “of” after “assessment”.

2003—Pub. L. 108-136, §3141(g)(24)(C), inserted section catchline, struck out former subsec. heading, and, in introductory provisions, substituted “the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398) or any other Act” for “this or any other Act” and “the Secretary of Energy” for “the Secretary”.

Pub. L. 108-136, §3115(b)(2), substituted “a report setting forth—” and pars. (1) to (3) for “the following:” and former pars. (1) to (3) which contained somewhat similar provisions.

Pub. L. 108-136, §3115(b)(1), in introductory provisions, substituted “submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and the Defense Nuclear Facilities Safety Board,” for “and the Defense Nuclear Facilities Safety Board jointly submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives”.

SUBCHAPTER V—SAFEGUARDS AND SECURITY MATTERS

PART A—SAFEGUARDS AND SECURITY

§ 2651. Prohibition on international inspections of Department of Energy facilities unless protection of Restricted Data is certified

(a) Prohibition on inspections

The Secretary of Energy may not allow an inspection of a national security laboratory or nuclear weapons production facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no Restricted Data will be revealed during such inspection.

(b) Omitted

(Pub. L. 107-314, div. D, title XLV, §4501, formerly Pub. L. 104-106, div. C, title XXXI, §3154, Feb. 10, 1996, 110 Stat. 624; renumbered Pub. L. 107-314, div. D, title XLV, §4501, and amended Pub. L. 108-136, div. C, title XXXI, §3141(h)(2), Nov. 24, 2003, 117 Stat. 1771; Pub. L. 112-239, div. C, title XXXI, §3131(j), Jan. 2, 2013, 126 Stat. 2182; Pub. L. 113-66, div. C, title XXXI, §3146(a)(2)(F), Dec. 26, 2013, 127 Stat. 1073; Pub. L. 113-291, div. C, title XXXI, §3142(j), Dec. 19, 2014, 128 Stat. 3900.)

CODIFICATION

Section is comprised of section 4501 of Pub. L. 107-314. Subsec. (b) of section 4501 of Pub. L. 107-314 amended provisions set out as a note under section 2153 of Title 42, The Public Health and Welfare.

Subsec. (a) of section 3154 of Pub. L. 104-106 was formerly set out as a note under section 2164 of Title 42, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291 substituted “national security laboratory or nuclear weapons production facility” for “nuclear weapons facility”.

2013—Subsec. (a). Pub. L. 113-66 substituted “Restricted Data” for “restricted data”.

Subsec. (c). Pub. L. 112-239 struck out subsec. (c), which defined “restricted data”.

2003—Pub. L. 108-136, §3141(h)(2)(D), redesignated par. (1) of subsec. (a) as entire subsec. (a) and par. (2) of subsec. (a) as subsec. (c) and, in subsec. (c), inserted heading and substituted “In this section” for “For purposes of paragraph (1)”. Subsec. (c) was editorially transferred to follow subsec. (b), to reflect the probable intent of Congress.

§ 2652. Restrictions on access to national security laboratories by foreign visitors from sensitive countries

(a) Background review required

The Secretary of Energy may not admit to any facility of a national security laboratory other than areas accessible to the general public any individual who is a citizen or agent of a nation that is named on the current sensitive countries list unless the Secretary first completes a background review with respect to that individual.

(b) Sense of Congress regarding background reviews

It is the sense of Congress that the Secretary of Energy, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence should ensure that background re-

views carried out under this section are completed in not more than 15 days.

(c) Definitions

For purposes of this section:

(1) The term “background review”, commonly known as an indices check, means a review of information provided by the Director of National Intelligence and the Director of the Federal Bureau of Investigation regarding personal background, including information relating to any history of criminal activity or to any evidence of espionage.

(2) The term “sensitive countries list” means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries.

(Pub. L. 107-314, div. D, title XLV, § 4502, formerly Pub. L. 106-65, div. C, title XXXI, § 3146, Oct. 5, 1999, 113 Stat. 935; renumbered Pub. L. 107-314, div. D, title XLV, § 4502, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(3), Nov. 24, 2003, 117 Stat. 1771; Pub. L. 112-239, div. C, title XXXI, § 3131(k)(1), (bb)(1)(D), Jan. 2, 2013, 126 Stat. 2182, 2185; Pub. L. 113-66, div. C, title XXXI, § 3146(f)(1), Dec. 26, 2013, 127 Stat. 1079.)

CODIFICATION

Section was formerly classified to section 7383c of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 112-239, § 3131(k)(1)(A), substituted “national security laboratories” for “national laboratories” in section catchline.

Pub. L. 112-239, § 3131(k)(1)(B), substituted “national security laboratory” for “national laboratory” wherever appearing.

Subsec. (b). Pub. L. 113-66, § 3146(f)(1)(A), (B), redesignated subsec. (f) as (b) and struck out former subsec. (b) which related to moratorium on admissions to any national security laboratory facility pending certain certifications.

Subsec. (b)(3). Pub. L. 112-239, § 3131(bb)(1)(D), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (c). Pub. L. 113-66, § 3146(f)(1)(A), (B), redesignated subsec. (g) as (c) and struck out former subsec. (c) which related to waiver of moratorium.

Subsec. (c)(2). Pub. L. 113-66, § 3146(f)(1)(C), struck out “as in effect on January 1, 1999” after “Countries”.

Subsecs. (d), (e). Pub. L. 113-66, § 3146(f)(1)(A), struck out subsecs. (d) and (e) which related to exception to moratorium for certain individuals and exception to moratorium for certain programs, respectively.

Subsec. (f). Pub. L. 113-66, § 3146(f)(1)(B), redesignated subsec. (f) as (b).

Pub. L. 112-239, § 3131(bb)(1)(D), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (g). Pub. L. 113-66, § 3146(f)(1)(B), redesignated subsec. (g) as (c).

Subsec. (g)(1). Pub. L. 112-239, § 3131(bb)(1)(D), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (g)(3), (4). Pub. L. 112-239, § 3131(k)(1)(C), struck out pars. (3) and (4), which defined “national laboratory” and “Restricted Data”, respectively.

2003—Subsec. (b)(2). Pub. L. 108-136, § 3141(h)(3)(D)(i)(I), substituted “on November 4, 1999,” for “30 days after October 5, 1999,” in introductory provisions.

Subsec. (b)(2)(A). Pub. L. 108-136, § 3141(h)(3)(D)(i)(II), substituted “January 3, 2000” for “The date that is 90 days after October 5, 1999”.

Subsec. (d)(1). Pub. L. 108-136, § 3141(h)(3)(D)(ii), substituted “October 5, 1999,” for “the date of the enactment of this Act,” in the original, which for purposes of codification had been changed to “October 5, 1999,” thus requiring no change in text.

Subsec. (g)(3), (4). Pub. L. 108-136, § 3141(h)(3)(D)(iii), added pars. (3) and (4).

§ 2653. Background investigations of certain personnel at Department of Energy facilities

The Secretary of Energy shall ensure that an investigation meeting the requirements of section 2165 of title 42 is made for each Department of Energy employee, or contractor employee, at a national security laboratory or nuclear weapons production facility who—

(1) carries out duties or responsibilities in or around a location where Restricted Data is present; or

(2) has or may have regular access to a location where Restricted Data is present.

(Pub. L. 107-314, div. D, title XLV, § 4503, formerly Pub. L. 106-65, div. C, title XXXI, § 3143, Oct. 5, 1999, 113 Stat. 934; renumbered Pub. L. 107-314, div. D, title XLV, § 4503, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(4), Nov. 24, 2003, 117 Stat. 1772; Pub. L. 112-239, div. C, title XXXI, § 3131(l), Jan. 2, 2013, 126 Stat. 2182.)

CODIFICATION

Section was formerly classified to section 7383a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 112-239 struck out subsec. (a) designation and heading “In general”, substituted “national security laboratory” for “national laboratory” in introductory provisions of text, and struck out subsecs. (b) and (c), which, respectively, required compliance by Secretary with former subsec. (a) and defined “national laboratory” and “Restricted Data”.

2003—Subsec. (b). Pub. L. 108-136, § 3141(h)(4)(D)(i), substituted “October 5, 1999,” for “the date of the enactment of this Act” in the original, which for purposes of codification had been changed to “October 5, 1999,” thus requiring no change in text.

Subsec. (c). Pub. L. 108-136, § 3141(h)(4)(D)(ii), added subsec. (c).

§ 2654. Department of Energy counterintelligence polygraph program

(a) New counterintelligence polygraph program required

The Secretary of Energy shall carry out, under regulations prescribed under this section, a new counterintelligence polygraph program for the Department of Energy. The purpose of the new program is to minimize the potential for release or disclosure of classified data, materials, or information.

(b) Authorities and limitations

(1) The Secretary shall prescribe regulations for the new counterintelligence polygraph program required by subsection (a) in accordance with the provisions of subchapter II of chapter 5 of title 5 (commonly referred to as the Administrative Procedures Act).

(2) In prescribing regulations for the new program, the Secretary shall take into account the results of the Polygraph Review.

(3) Not later than six months after obtaining the results of the Polygraph Review, the Secretary shall issue a notice of proposed rule-making for the new program.

(c) Omitted

(d) Polygraph Review defined

In this section, the term “Polygraph Review” means the review of the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

(Pub. L. 107–314, div. D, title XLV, § 4504, formerly Pub. L. 107–107, div. C, title XXXI, § 3152, Dec. 28, 2001, 115 Stat. 1376; renumbered Pub. L. 107–314, div. D, title XLV, § 4504, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(h)(5)(A), Nov. 24, 2003, 117 Stat. 1772; Pub. L. 113–66, div. C, title XXXI, § 3146(f)(2), Dec. 26, 2013, 127 Stat. 1079.)

CODIFICATION

Section is comprised of section 4504 of Pub. L. 107–314. Subsec. (c) of section 4504 of Pub. L. 107–314 repealed section 2655 of this title.

Section was formerly classified to section 7383h–1 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Subsecs. (d), (e). Pub. L. 113–66 redesignated subsec. (e) as (d) and struck out former subsec. (d) which required submission of a report on further enhancement of personnel security program.

2003—Subsec. (c). Pub. L. 108–136, § 3141(h)(5)(A)(iv), made technical amendment. See Codification note above.

§ 2655. Repealed. Pub. L. 107–314, div. D, title XLV, § 4504(c), formerly Pub. L. 107–107, div. C, title XXXI, § 3152(c), Dec. 28, 2001, 115 Stat. 1377; renumbered Pub. L. 107–314, div. D, title XLV, § 4504(c), and amended Pub. L. 108–136, div. C, title XXXI, § 3141(h)(5)(A), Nov. 24, 2003, 117 Stat. 1772

Section, Pub. L. 107–314, div. D, title XLV, § 4504A, formerly Pub. L. 106–65, div. C, title XXXI, § 3154, Oct. 5, 1999, 113 Stat. 941; Pub. L. 106–398, § 1 [div. C, title XXXI, § 3135], Oct. 30, 2000, 114 Stat. 1654, 1654A–456; renumbered Pub. L. 107–314, div. D, title XLV, § 4504A, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(h)(5)(B), Nov. 24, 2003, 117 Stat. 1773, related to a counterintelligence polygraph program for the defense-related activities of the Department of Energy. See section 2654 of this title.

EFFECTIVE DATE OF REPEAL

Pub. L. 107–314, div. D, title XLV, § 4504(c), formerly Pub. L. 107–107, div. C, title XXXI, § 3152(c), Dec. 28, 2001, 115 Stat. 1377, renumbered Pub. L. 107–314, div. D, title XLV, § 4504(c), and amended Pub. L. 108–136, div. C, title XXXI, § 3141(h)(5)(A), Nov. 24, 2003, 117 Stat. 1772, provided that the repeal of this section is effective 30 days after the Secretary of Energy submits to the Committees on Armed Services and Appropriations of Senate and House of Representatives the Secretary’s certification that the final rule for the new counterintelligence polygraph program required by section 2654(a) of this title has been fully implemented (Such certifications were submitted Oct. 31, 2006.).

§ 2656. Notice to congressional committees of certain security and counterintelligence failures within atomic energy defense programs

(a) Required notification

The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each significant atomic energy defense intelligence loss. Any such notification shall be provided only after consultation with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, as appropriate.

(b) Significant atomic energy defense intelligence losses

In this section, the term “significant atomic energy defense intelligence loss” means any national security or counterintelligence failure or compromise of classified information at a facility of the Department of Energy or operated by a contractor of the Department that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States.

(c) Manner of notification

Notification of a significant atomic energy defense intelligence loss under subsection (a) shall be provided, in accordance with the procedures established pursuant to subsection (d), not later than 30 days after the date on which the Department of Energy determines that the loss has taken place.

(d) Procedures

The Secretary of Energy and the Committees on Armed Services of the Senate and House of Representatives shall each establish such procedures as may be necessary to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is submitted to those committees pursuant to this section and that are otherwise necessary to carry out the provisions of this section.

(e) Statutory construction

(1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intelligence sources and methods, or sensitive law enforcement information.

(2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to Congress, including the requirement under section 3091 of this title for the President to ensure that the congressional intelligence committees are kept fully informed of the intelligence activities of the United States and for those committees to notify promptly other congressional committees of any matter relating to intelligence activities requiring the attention of those committees.

(Pub. L. 107–314, div. D, title XLV, § 4505, formerly Pub. L. 106–65, div. C, title XXXI, § 3150,

Oct. 5, 1999, 113 Stat. 939; renumbered Pub. L. 107-314, div. D, title XLV, §4505, by Pub. L. 108-136, div. C, title XXXI, §3141(h)(6), Nov. 24, 2003, 117 Stat. 1773; Pub. L. 112-239, div. C, title XXXI, §3131(m)(1), (bb)(1)(D), Jan. 2, 2013, 126 Stat. 2182, 2185; Pub. L. 113-66, div. C, title XXXI, §3146(f)(3), Dec. 26, 2013, 127 Stat. 1079; Pub. L. 113-291, div. C, title XXXI, §3142(k), Dec. 19, 2014, 128 Stat. 3901.)

CODIFICATION

Section was formerly classified to section 7383d of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-291, §3142(k)(1), reenacted heading without change.

Subsec. (e)(2). Pub. L. 113-291, §3142(k)(2), made technical amendment to reference in original act which appears in text as reference to section 3091 of this title.

2013—Pub. L. 112-239, §3131(m)(1)(A), substituted “atomic” for “nuclear” in section catchline.

Subsec. (a). Pub. L. 112-239, §3131(bb)(1)(D), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Pub. L. 112-239, §3131(m)(1)(C), substituted “atomic energy defense” for “nuclear defense”.

Subsec. (b). Pub. L. 112-239, §3131(m)(1)(B), (C), substituted “atomic energy” for “nuclear” in heading and “atomic energy defense” for “nuclear defense” in text.

Subsec. (c). Pub. L. 112-239, §3131(m)(1)(C), substituted “atomic energy defense” for “nuclear defense”.

Subsec. (e)(2). Pub. L. 113-66 substituted “Congress” for “the Congress”.

§ 2657. Annual report and certification on status of security of atomic energy defense facilities

(a) Report and certification on nuclear security enterprise

(1) Not later than September 30 of each year, the Administrator shall submit to the Secretary of Energy—

(A) a report detailing the status of security at facilities holding Category I and II quantities of special nuclear material that are administered by the Administration; and

(B) written certification that such facilities are secure and that the security measures at such facilities meet the security standards and requirements of the Administration and the Department of Energy.

(2) If the Administrator is unable to make the certification described in paragraph (1)(B) with respect to a facility, the Administrator shall submit to the Secretary with the matters required by paragraph (1) a corrective action plan for the facility describing—

(A) the deficiency that resulted in the Administrator being unable to make the certification;

(B) the actions to be taken to correct the deficiency; and

(C) timelines for taking such actions.

(3) Not later than December 1 of each year, the Secretary shall submit to the congressional defense committees the unaltered report, certification, and any corrective action plans submitted by the Administrator under paragraphs (1) and (2) together with any comments of the Secretary.

(b) Report and certification on atomic energy defense facilities not administered by the Administration

(1) Not later than December 1 of each year, the Secretary shall submit to the congressional defense committees—

(A) a report detailing the status of the security of atomic energy defense facilities holding Category I and II quantities of special nuclear material that are not administered by the Administration; and

(B) written certification that such facilities meet the security standards and requirements of the Department of Energy.

(2) If the Secretary is unable to make the certification described in paragraph (1)(B) with respect to a facility, the Secretary shall submit to the congressional defense committees, together with the matters required by paragraph (1), a corrective action plan describing—

(A) the deficiency that resulted in the Secretary being unable to make the certification;

(B) the actions to be taken to correct the deficiency; and

(C) timelines for taking such actions.

(Pub. L. 107-314, div. D, title XLV, §4506, formerly Pub. L. 105-85, div. C, title XXXI, §3162, Nov. 18, 1997, 111 Stat. 2049; Pub. L. 106-65, div. C, title XXXI, §3142(h)(2), Oct. 5, 1999, 113 Stat. 934; renumbered Pub. L. 107-314, div. D, title XLV, §4506, and amended Pub. L. 108-136, div. C, title XXXI, §3141(h)(7), Nov. 24, 2003, 117 Stat. 1773; Pub. L. 113-66, div. C, title XXXI, §3121(a), Dec. 26, 2013, 127 Stat. 1060.)

CODIFICATION

Section was formerly set out as a note under section 7274m of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 113-66 amended section generally. Prior to amendment, text read as follows: “Not later than September 1 each year, the Secretary of Energy shall submit to the congressional defense committees the report entitled ‘Annual Report to the President on the Status of Safeguards and Security of Domestic Nuclear Weapons Facilities’, or any successor report to such report.”

2003—Subsec. (b). Pub. L. 108-136, §3141(h)(7)(D), which directed the amendment of subsec. (b) by inserting “of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2048; 42 U.S.C. 7251 note)” after “section 3161”, could not be executed because of the repeal of subsec. (b) by Pub. L. 106-65. See 1999 Amendment note below.

1999—Pub. L. 106-65 struck out subsec. (a) designation and heading and struck out heading and text of subsec. (b). Text read as follows: “The Secretary shall include with each report submitted under subsection (a) in fiscal years 1998 through 2000 any comments on such report by the members of the Department of Energy Security Management Board established under section 3161 that such members consider appropriate.”

§ 2658. Repealed. Pub. L. 113-66, div. C, title XXXI, §3132(a)(1), Dec. 26, 2013, 127 Stat. 1068

Section, Pub. L. 107-314, div. D, title XLV, §4507, formerly Pub. L. 106-65, div. C, title XXXI, §3152, Oct. 5, 1999, 113 Stat. 940; renumbered Pub. L. 107-314, div. D, title XLV, §4507, and amended Pub. L. 108-136, div. C, title XXXI, §3141(h)(8), Nov. 24, 2003, 117 Stat. 1773; Pub. L. 112-239, div. C, title XXXI, §3131(n)(1), Jan. 2, 2013, 126

Stat. 2183, related to the annual submission and contents of a report on counterintelligence and security practices at national security laboratories.

§ 2659. Report on security vulnerabilities of national security laboratory computers

(a) Report required

Not later than March 1 of each year, the National Counterintelligence Policy Board shall prepare a report on the security vulnerabilities of the computers of the national security laboratories.

(b) Preparation of report

In preparing the report, the National Counterintelligence Policy Board shall establish a so-called “red team” of individuals to perform an operational evaluation of the security vulnerabilities of the computers of one or more national security laboratories, including by direct experimentation. Such individuals shall be selected by the National Counterintelligence Policy Board from among employees of the Department of Defense, the National Security Agency, the Central Intelligence Agency, the Federal Bureau of Investigation, and of other agencies, and may be detailed to the National Counterintelligence Policy Board from such agencies without reimbursement and without interruption or loss of civil service status or privilege.

(c) Submission of report to Secretary of Energy and to FBI Director

Not later than March 1 of each year, the report shall be submitted in classified and unclassified form to the Secretary of Energy and the Director of the Federal Bureau of Investigation.

(d) Forwarding to congressional committees

Not later than 30 days after the report is submitted, the Secretary and the Director shall each separately forward that report, with the recommendations in classified and unclassified form of the Secretary or the Director, as applicable, in response to the findings of that report, to the following:

- (1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.
- (2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(Pub. L. 107–314, div. D, title XLV, § 4508, formerly Pub. L. 106–65, div. C, title XXXI, § 3153, Oct. 5, 1999, 113 Stat. 940; renumbered Pub. L. 107–314, div. D, title XLV, § 4508, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(h)(9), Nov. 24, 2003, 117 Stat. 1774; Pub. L. 112–239, div. C, title XXXI, § 3131(o)(1), Jan. 2, 2013, 126 Stat. 2183.)

CODIFICATION

Section was formerly classified to section 7383g of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Pub. L. 112–239, § 3131(o)(1)(A), substituted “national security laboratory” for “national laboratory” in section catchline.

Subsecs. (a), (b). Pub. L. 112–239, § 3131(o)(1)(B), substituted “national security laboratories” for “national laboratories”.

Subsecs. (e), (f). Pub. L. 112–239, § 3131(o)(1)(C), struck out subsecs. (e) and (f), which provided, respectively, that first report under this section would be for the year 2000 and for definition of “national laboratory”.

2003—Subsec. (f). Pub. L. 108–136, § 3141(h)(9)(D), added subsec. (f).

§ 2660. Design and use of prototypes of nuclear weapons for intelligence purposes

(a) Prototypes

(1) Not later than the date on which the President submits to Congress under section 1105(a) of title 31 the budget for fiscal year 2016, the directors of the national security laboratories shall jointly develop a multiyear plan to design and build prototypes of nuclear weapons to further intelligence estimates with respect to foreign nuclear weapons activities and capabilities.

(2) Not later than the date on which the President submits to Congress under section 1105(a) of title 31 the budget for an even-numbered fiscal year occurring after fiscal year 2017, the directors shall jointly develop an update to the plan developed under paragraph (1).

(3)(A) The directors shall jointly submit to the Secretary of Energy and the Director of National Intelligence the plan and each update developed under paragraphs (1) and (2), respectively.

(B) Not later than 30 days after the date on which the directors submit the plan or an update under subparagraph (A), the Secretary—

(i) shall submit to the congressional defense committees and the congressional intelligence committees the plan or update, as the case may be, without change; and

(ii) may include, with the plan or update submitted under clause (i), the views of the Secretary with respect to the plan or update.

(4)(A) The Secretary, in coordination with the directors, shall carry out the plan developed under paragraph (1), including the updates to the plan developed under paragraph (2).

(B) The Secretary may determine the manner in which the designing and building of prototypes of nuclear weapons is carried out under such plan.

(C) The Secretary shall promptly submit to the congressional defense committees and the congressional intelligence committees written notification of any changes the Secretary makes to such plan pursuant to subparagraph (B), including justifications for such changes.

(b) Matters included

(1) The directors shall ensure that the plan developed and updated under subsection (a) provides increased information upon which to base intelligence assessments and emphasizes the competencies of the national security laboratories with respect to designing and building prototypes of nuclear weapons.

(2) To carry out paragraph (1), the plan developed and updated under subsection (a) shall include the following:

(A) Design and system engineering activities of full-scale engineering prototypes (using surrogate special nuclear materials), including weaponization features as required.

(B) Design, system engineering, and experimental testing (using surrogate special nu-

clear materials) of above-ground experiment test hardware.

(C) Design and system engineering of scaled or subcomponent experimental test articles (using special nuclear materials) for conducting experiments at the Nevada National Security Site.

(c) Prohibition on production of nuclear yields

In carrying out this section, the Secretary may not conduct any experiments that produce a nuclear yield.

(Pub. L. 107-314, div. D, title XLV, §4509, as added Pub. L. 112-239, div. C, title XXXI, §3115(a), Jan. 2, 2013, 126 Stat. 2172; amended Pub. L. 113-291, div. C, title XXXI, §3111, Dec. 19, 2014, 128 Stat. 3884.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291, §3111(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “The Administrator shall develop and carry out a plan for the national security laboratories and nuclear weapons production facilities to design and build prototypes of nuclear weapons to further intelligence estimates with respect to foreign nuclear weapons activities.”

Subsec. (b). Pub. L. 113-291, §3111(b)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 113-291, §3111(c), substituted “this section, the Secretary” for “subsection (a), the Administrator”.

Pub. L. 113-291, §3111(b)(1), redesignated subsec. (b) as (c).

PART B—CLASSIFIED INFORMATION

§ 2671. Review of certain documents before declassification and release

(a) In general

The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains Restricted Data.

(b) Limitation on declassification

The Secretary may not implement the automatic declassification provisions of Executive Order No. 13526 (50 U.S.C. 3161 note) if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing Restricted Data.

(Pub. L. 107-314, div. D, title XLV, §4521, formerly Pub. L. 104-106, div. C, title XXXI, §3155, Feb. 10, 1996, 110 Stat. 625; renumbered Pub. L. 107-314, div. D, title XLV, §4521, by Pub. L. 108-136, div. C, title XXXI, §3141(h)(11), Nov. 24, 2003, 117 Stat. 1774; amended Pub. L. 112-239, div. C, title XXXI, §3131(p), Jan. 2, 2013, 126 Stat. 2183; Pub. L. 113-66, div. C, title XXXI, §3146(a)(2)(G), Dec. 26, 2013, 127 Stat. 1073; Pub. L. 113-291, div. C, title XXXI, §3142(l), Dec. 19, 2014, 128 Stat. 3901.)

CODIFICATION

Section was formerly set out as a note under section 2162 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-291 substituted “Executive Order No. 13526 (50 U.S.C. 3161 note)” for “Executive Order 12958”.

2013—Subsecs. (a), (b). Pub. L. 113-66 substituted “Restricted Data” for “restricted data”.

Subsec. (c). Pub. L. 112-239 struck out subsec. (c), which defined “restricted data”.

§ 2672. Protection against inadvertent release of Restricted Data and Formerly Restricted Data

(a) Plan for protection against release

The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a plan to prevent the inadvertent release of records containing Restricted Data or Formerly Restricted Data during the automatic declassification of records under Executive Order No. 13526 (50 U.S.C. 3161 note).

(b) Plan elements

The plan under subsection (a) shall include the following:

(1) The actions to be taken in order to ensure that records subject to Executive Order No. 13526 are reviewed on a page-by-page basis for Restricted Data and Formerly Restricted Data unless they have been determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

(2) The criteria and process by which documents are determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

(3) The actions to be taken in order to ensure proper training, supervision, and evaluation of personnel engaged in declassification under that Executive order so that such personnel recognize Restricted Data and Formerly Restricted Data.

(4) The extent to which automated declassification technologies will be used under that Executive order to protect Restricted Data and Formerly Restricted Data from inadvertent release.

(5) Procedures for periodic review and evaluation by the Secretary of Energy, in consultation with the Director of the Information Security Oversight Office of the National Archives and Records Administration, of compliance by Federal agencies with the plan.

(6) Procedures for resolving disagreements among Federal agencies regarding declassification procedures and decisions under the plan.

(7) The funding, personnel, and other resources required to carry out the plan.

(8) A timetable for implementation of the plan.

(c) Limitation on declassification of certain records

(1) Effective on October 17, 1998, and except as provided in paragraph (3), a record referred to in subsection (a) may not be declassified unless the agency having custody of the record reviews the record on a page-by-page basis to ensure that

the record does not contain Restricted Data or Formerly Restricted Data.

(2) Any record determined as a result of a review under paragraph (1) to contain Restricted Data or Formerly Restricted Data may not be declassified until the Secretary of Energy, in conjunction with the head of the agency having custody of the record, determines that the document is suitable for declassification.

(3) After the date occurring 60 days after the submission of the plan required by subsection (a) to the committees referred to in paragraphs (1) and (2) of subsection (d), the requirement under paragraph (1) to review a record on a page-by-page basis shall not apply in the case of a record determined, under the actions specified in the plan pursuant to subsection (b)(1), to be a record that is highly unlikely to contain Restricted Data or Formerly Restricted Data.

(d) Submission of plan

The Secretary of Energy shall submit the plan required under subsection (a) to the following:

- (1) The Committee on Armed Services of the Senate.
- (2) The Committee on Armed Services of the House of Representatives.
- (3) The Assistant to the President for National Security Affairs.

(e) Submission of reviews

The Secretary of Energy shall, in each even-numbered year, submit a summary of the results of the periodic reviews and evaluations specified in the plan pursuant to subsection (b)(5) to the committees and Assistant to the President specified in subsection (d).

(f) Report and notification regarding inadvertent releases

(1) The Secretary of Energy shall submit to the committees and Assistant to the President specified in subsection (d) a report on inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 that occurred before October 17, 1998.

(2) The Secretary of Energy shall, in each even-numbered year beginning in 2010, submit to the committees and Assistant to the President specified in subsection (d) a report identifying any inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 13526 discovered in the two-year period preceding the submittal of the report.

(Pub. L. 107-314, div. D, title XLV, § 4522, formerly Pub. L. 105-261, div. C, title XXXI, § 3161, Oct. 17, 1998, 112 Stat. 2259; Pub. L. 106-65, div. A, title X, § 1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106-398, § 1 [div. C, title XXXI, § 3193(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-480; renumbered Pub. L. 107-314, div. D, title XLV, § 4522, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(12), Nov. 24, 2003, 117 Stat. 1774; Pub. L. 110-417, div. C, title XXXI, § 3123, Oct. 14, 2008, 122 Stat. 4759; Pub. L. 113-66, div. C, title XXXI, § 3146(a)(2)(H), Dec. 26, 2013, 127 Stat. 1073; Pub. L. 113-291, div. C, title XXXI, § 3142(m), Dec. 19, 2014, 128 Stat. 3901.)

REFERENCES IN TEXT

Executive Order No. 12958, referred to in subsec. (f)(1), which was formerly set out as a note under section 435

(now section 3161) of this title, was revoked by Ex. Ord. No. 13526, § 6.2(g), Dec. 29, 2009, 75 F.R. 731.

CODIFICATION

Section was formerly set out as a note under section 435 of this title prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291, § 3142(m)(1), substituted “Executive Order No. 13526 (50 U.S.C. 3161 note)” for “Executive Order No. 12958 (50 U.S.C. 435 note)”.

Subsec. (b)(1). Pub. L. 113-291, § 3142(m)(2), substituted “Executive Order No. 13526” for “Executive Order No. 12958”.

Subsec. (f)(2). Pub. L. 113-291, § 3142(m)(3), substituted “Executive Order No. 13526” for “Executive Order No. 12958”.

2013—Subsec. (g). Pub. L. 113-66 struck out subsec. (g) which defined “Restricted Data”.

2008—Subsec. (e). Pub. L. 110-417, § 3121(a)(1), (b), substituted “in each even-numbered year” for “on a periodic basis” and “subsection (b)(5)” for “subsection (b)(4)”.

Subsec. (f). Pub. L. 110-417, § 3123(a)(2), added par. (2) and struck out former par. (2) which read as follows: “Commencing with inadvertent releases discovered on or after October 30, 2000, the Secretary of Energy shall, on a quarterly basis, submit a report to the committees and Assistant to the President specified in subsection (d). The report shall state whether any inadvertent releases described in paragraph (1) occurred during the immediately preceding quarter and, if so, shall identify each such release.”

2003—Subsec. (c)(1). Pub. L. 108-136, § 3141(h)(12)(D)(i), substituted “October 17, 1998,” for “the date of the enactment of this Act”.

Subsec. (f)(1). Pub. L. 108-136, § 3141(h)(12)(D)(ii), substituted “October 17, 1998” for “the date of the enactment of this Act”.

Subsec. (f)(2). Pub. L. 108-136, § 3141(h)(12)(D)(iii), substituted “Commencing with inadvertent releases discovered on or after October 30, 2000, the Secretary” for “The Secretary”.

2000—Subsec. (f)(2). Pub. L. 106-398 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Not later than 30 days after any such inadvertent release occurring after the date of the enactment of this Act, the Secretary of Energy shall notify the committees and Assistant to the President specified in subsection (d) of such releases.”

1999—Subsec. (d)(2). Pub. L. 106-65 substituted “Committee on Armed Services” for “Committee on National Security”.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, § 1 [div. C, title XXXI, § 3193(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-481, provided that: “The amendment made by subsection (a) [amending this section] apply [sic] with respect to inadvertent releases of Restricted Data and Formerly Restricted Data that are discovered on or after the date of the enactment of this Act [Oct. 30, 2000].”

§ 2673. Supplement to plan for declassification of Restricted Data and Formerly Restricted Data

(a) Supplement to plan

The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a supplement to the plan required under subsection (a) of section 2672 of this title.

(b) Contents of supplement

The supplement shall provide for the application of that plan (including in particular the ele-

ment of the plan required by subsection (b)(1) of section 2672 of this title) to all records subject to Executive Order No. 12958 that were determined before October 17, 1998, to be suitable for declassification.

(c) Limitation on declassification of records

All records referred to in subsection (b) shall be treated, for purposes of subsection (c) of section 2672 of this title, in the same manner as records referred to in subsection (a) of such section.

(d) Submission of supplement

The Secretary of Energy shall submit the supplement required under subsection (a) to the recipients of the plan referred to in subsection (d) of section 2672 of this title.

(Pub. L. 107-314, div. D, title XLV, § 4523, formerly Pub. L. 106-65, div. C, title XXXI, § 3149, Oct. 5, 1999, 113 Stat. 938; renumbered Pub. L. 107-314, div. D, title XLV, § 4523, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(13), Nov. 24, 2003, 117 Stat. 1775.)

REFERENCES IN TEXT

Executive Order No. 12958, referred to in subsec. (b), which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 13526, § 6.2(g), Dec. 29, 2009, 75 F.R. 731.

CODIFICATION

Section was formerly set out as a note under section 435 of this title prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, § 3141(h)(13)(D)(i), substituted “subsection (a) of section 2672 of this title” for “subsection (a) of section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2260; 50 U.S.C. 435 note)”.

Subsec. (b). Pub. L. 108-136, § 3141(h)(13)(D)(ii), substituted “subsection (b)(1) of section 2672 of this title” for “section 3161(b)(1) of that Act” and “October 17, 1998,” for “the date of the enactment of that Act”.

Subsec. (c). Pub. L. 108-136, § 3141(h)(13)(D)(iii), substituted “subsection (c) of section 2672 of this title” for “section 3161(c) of that Act” and “subsection (a) of such section” for “section 3161(a) of that Act”.

Subsec. (d). Pub. L. 108-136, § 3141(h)(13)(D)(iv), substituted “subsection (d) of section 2672 of this title” for “section 3161(d) of that Act”.

§ 2674. Protection of classified information during laboratory-to-laboratory exchanges

(a) Provision of training

The Secretary of Energy shall ensure that all Department of Energy employees and Department of Energy contractor employees participating in laboratory-to-laboratory cooperative exchange activities are fully trained in matters relating to the protection of classified information and to potential espionage and counterintelligence threats.

(b) Countering of espionage and intelligence-gathering abroad

(1) The Secretary shall establish a pool of Department employees and Department contractor employees who are specially trained to counter threats of espionage and intelligence-gathering by foreign nationals against Department em-

ployees and Department contractor employees who travel abroad for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

(2) The Director of Counterintelligence of the Department of Energy may assign at least one employee from the pool established under paragraph (1) to accompany a group of Department employees or Department contractor employees who travel to any nation designated to be a sensitive country for laboratory-to-laboratory exchange activities or other cooperative exchange activities on behalf of the Department.

(Pub. L. 107-314, div. D, title XLV, § 4524, formerly Pub. L. 106-65, div. C, title XXXI, § 3145, Oct. 5, 1999, 113 Stat. 935; renumbered Pub. L. 107-314, div. D, title XLV, § 4524, by Pub. L. 108-136, div. C, title XXXI, § 3141(h)(14), Nov. 24, 2003, 117 Stat. 1775.)

CODIFICATION

Section was formerly classified to section 7383b of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

§ 2675. Identification in budget materials of amounts for declassification activities and limitation on expenditures for such activities

(a) Amounts for declassification of records

The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) specific identification, as a budgetary line item, of the amounts required to carry out programmed activities during that fiscal year to declassify records pursuant to Executive Order No. 13526 (50 U.S.C. 3161 note), or any successor Executive order, or to comply with any statutory requirement to declassify Government records.

(b) Certification required with respect to automatic declassification of records

No records of the Department of Energy that have not as of October 5, 1999, been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Energy certifies to Congress that such declassification would not harm the national security.

(Pub. L. 107-314, div. D, title XLV, § 4525, formerly Pub. L. 106-65, div. C, title XXXI, § 3173, Oct. 5, 1999, 113 Stat. 949; renumbered Pub. L. 107-314, div. D, title XLV, § 4525, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(h)(15), Nov. 24, 2003, 117 Stat. 1775; Pub. L. 113-66, div. C, title XXXI, § 3146(f)(4), Dec. 26, 2013, 127 Stat. 1079; Pub. L. 113-291, div. C, title XXXI, § 3142(n), Dec. 19, 2014, 128 Stat. 3901.)

CODIFICATION

Section was formerly set out as a note under section 435 of this title prior to renumbering by Pub. L. 108-136.

PRIOR PROVISIONS

A prior section 2691, Pub. L. 107-314, div. D, title XLV, § 4541, formerly Pub. L. 104-106, div. C, title XXXI, § 3158, Feb. 10, 1996, 110 Stat. 626; renumbered Pub. L. 107-314, div. D, title XLV, § 4541, by Pub. L. 108-136, div. C, title XXXI, § 3141(h)(17), Nov. 24, 2003, 117 Stat. 1776, related

to responsibility for Defense Programs Emergency Response Program, prior to repeal by Pub. L. 113-66, div. C, title XXXI, §3146(f)(5)(A), Dec. 26, 2013, 127 Stat. 1079.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291 substituted “Executive Order No. 13526 (50 U.S.C. 3161 note)” for “Executive Order No. 12958 (50 U.S.C. 435 note)”.

2013—Subsec. (c). Pub. L. 113-66 struck out subsec. (c) which required submission of a report on automatic declassification of Department of Energy records.

2003—Subsec. (b). Pub. L. 108-136, §3141(h)(15)(D), substituted “October 5, 1999,” for “the date of the enactment of this Act”.

SUBCHAPTER VI—PERSONNEL MATTERS

PART A—PERSONNEL MANAGEMENT

§ 2701. Authority for appointment of certain scientific, engineering, and technical personnel

(a) Authority

(1) Notwithstanding any provision of title 5 governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(b) OPM review

(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of title 5.

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5 or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate

for the qualifications and experience of the persons appointed and the duties of the positions involved; or

(B) cease appointment of persons under such authority.

(c) Termination

(1) The authority provided under subsection (a)(1) shall terminate on September 30, 2016.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

(Pub. L. 107-314, div. D, title XLVI, §4601, formerly Pub. L. 103-337, div. C, title XXXI, §3161, Oct. 5, 1994, 108 Stat. 3095; Pub. L. 105-85, div. C, title XXXI, §3139, Nov. 18, 1997, 111 Stat. 2040; Pub. L. 105-261, div. C, title XXXI, §§3152, 3155, Oct. 17, 1998, 112 Stat. 2253, 2257; Pub. L. 106-398, §1 [div. C, title XXXI, §3191], Oct. 30, 2000, 114 Stat. 1654, 1654A-480; Pub. L. 107-314, div. C, title XXXI, §3174, Dec. 2, 2002, 116 Stat. 2745; renumbered Pub. L. 107-314, div. D, title XLVI, §4601, by Pub. L. 108-136, div. C, title XXXI, §3141(i)(2), Nov. 24, 2003, 117 Stat. 1776; Pub. L. 108-375, div. C, title XXXI, §3112, Oct. 28, 2004, 118 Stat. 2160; Pub. L. 109-364, div. C, title XXXI, §3115, Oct. 17, 2006, 120 Stat. 2506; Pub. L. 111-32, title IV, §402, June 24, 2009, 123 Stat. 1877; Pub. L. 111-84, div. C, title XXXI, §3119, Oct. 28, 2009, 123 Stat. 2709; Pub. L. 111-383, div. C, title XXXI, §3117, Jan. 7, 2011, 124 Stat. 4513; Pub. L. 113-66, div. C, title XXXI, §3146(g)(1), Dec. 26, 2013, 127 Stat. 1079.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly set out as a note under section 7231 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (a)(4). Pub. L. 113-66 struck out par. (4) which read as follows: “The Secretary may not appoint more than 100 persons during fiscal year 1995 under the authority provided in this subsection.”

2011—Subsec. (c)(1). Pub. L. 111-383 substituted “September 30, 2016” for “September 30, 2011”.

2009—Subsec. (c)(1). Pub. L. 111-84 substituted “September 30, 2011” for “September 30, 2009”.

Pub. L. 111-32 substituted “September 30, 2009” for “September 30, 2008”.

2006—Subsec. (c)(1). Pub. L. 109-364 substituted “September 30, 2008” for “September 30, 2006”.

2004—Subsec. (c)(1). Pub. L. 108-375 substituted “September 30, 2006” for “September 30, 2004”.

2002—Subsec. (c)(1). Pub. L. 107-314, §3174, substituted “September 30, 2004” for “September 30, 2002”.

2000—Subsec. (c)(1). Pub. L. 106-398 substituted “September 30, 2002” for “September 30, 2000”.

1998—Subsec. (a)(2). Pub. L. 105-261, §3155, substituted “level III of the Executive Schedule under section 5314” for “level IV of the Executive Schedule under section 5315”.

Subsec. (c)(1). Pub. L. 105-261, §3152, substituted “September 30, 2000” for “September 30, 1999”.

1997—Subsec. (c). Pub. L. 105-85, §3139(a), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to a study to be conducted by the Environmental Protection Agency.

Subsec. (c)(1). Pub. L. 105-85, §3139(b), substituted “September 30, 1999” for “September 30, 1997”.

Subsec. (d). Pub. L. 105-85, §3139(a)(2), redesignated subsec. (d) as (c).

§ 2702. Whistleblower protection program

(a) Program required

The Secretary of Energy shall establish a program to ensure that covered individuals may not be discharged, demoted, or otherwise discriminated against as a reprisal for making protected disclosures.

(b) Covered individuals

For purposes of this section, a covered individual is an individual who is an employee of the Department of Energy, or of a contractor of the Department, who is engaged in the defense activities of the Department.

(c) Protected disclosures

For purposes of this section, a protected disclosure is a disclosure—

- (1) made by a covered individual who takes appropriate steps to protect the security of the information in accordance with guidance provided under this section;
- (2) made to a person or entity specified in subsection (d); and
- (3) of classified or other information that the covered individual reasonably believes to provide direct and specific evidence of any of the following:
 - (A) A violation of law or Federal regulation.
 - (B) Gross mismanagement, a gross waste of funds, or abuse of authority.
 - (C) A false statement to Congress on an issue of material fact.

(d) Persons and entities to which disclosures may be made

A person or entity specified in this subsection is any of the following:

- (1) A member of a committee of Congress having primary responsibility for oversight of the department, agency, or element of the Government to which the disclosed information relates.
- (2) An employee of Congress who is a staff member of such a committee and has an appropriate security clearance for access to information of the type disclosed.
- (3) The Inspector General of the Department of Energy.
- (4) The Federal Bureau of Investigation.
- (5) Any other element of the Government designated by the Secretary as authorized to receive information of the type disclosed.

(e) Official capacity of persons to whom information is disclosed

A member of, or an employee of Congress who is a staff member of, a committee of Congress specified in subsection (d) who receives a protected disclosure under this section does so in that member or employee's official capacity as such a member or employee.

(f) Assistance and guidance

The Secretary, acting through the Inspector General of the Department of Energy, shall provide assistance and guidance to each covered individual who seeks to make a protected disclo-

sure under this section. Such assistance and guidance shall include the following:

- (1) Identifying the persons or entities under subsection (d) to which that disclosure may be made.
- (2) Advising that individual regarding the steps to be taken to protect the security of the information to be disclosed.
- (3) Taking appropriate actions to protect the identity of that individual throughout that disclosure.
- (4) Taking appropriate actions to coordinate that disclosure with any other Federal agency or agencies that originated the information.

(g) Regulations

The Secretary shall prescribe regulations to ensure the security of any information disclosed under this section.

(h) Notification to covered individuals

The Secretary shall notify each covered individual of the following:

- (1) The rights of that individual under this section.
- (2) The assistance and guidance provided under this section.
- (3) That the individual has a responsibility to obtain that assistance and guidance before seeking to make a protected disclosure.

(i) Complaint by covered individuals

If a covered individual believes that that individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the individual may submit a complaint relating to such matter to the Director of the Office of Hearings and Appeals of the Department of Energy.

(j) Investigation by Office of Hearings and Appeals

(1) For each complaint submitted under subsection (i), the Director of the Office of Hearings and Appeals shall—

- (A) determine whether or not the complaint is frivolous; and
- (B) if the Director determines the complaint is not frivolous, conduct an investigation of the complaint.

(2) The Director shall submit a report on each investigation undertaken under paragraph (1)(B) to—

- (A) the individual who submitted the complaint on which the investigation is based;
- (B) the contractor concerned, if any; and
- (C) the Secretary of Energy.

(k) Remedial action

(1) Whenever the Secretary determines that a covered individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the Secretary shall—

- (A) in the case of a Department employee, take appropriate actions to abate the action; or
- (B) in the case of a contractor employee, order the contractor concerned to take appropriate actions to abate the action.

(2)(A) If a contractor fails to comply with an order issued under paragraph (1)(B), the Sec-

retary may file an action for enforcement of the order in the appropriate United States district court.

(B) In any action brought under subparagraph (A), the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(I) Relationship to other laws

The protections provided by this section are independent of, and not subject to any limitations that may be provided in, the Whistleblower Protection Act of 1989 (Public Law 101-12; 103 Stat. 16) or any other law that may provide protection for disclosures of information by employees of the Department of Energy or of a contractor of the Department.

(m) Annual report

(1) Not later than 30 days after the commencement of each fiscal year, the Director shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the investigations undertaken under subsection (j)(1)(B) during the preceding fiscal year, including a summary of the results of each such investigation.

(2) A report under paragraph (1) may not identify or otherwise provide any information about an individual submitting a complaint under this section without the consent of the individual.

(Pub. L. 107-314, div. D, title XLVI, § 4602, formerly Pub. L. 106-65, div. C, title XXXI, § 3164, Oct. 5, 1999, 113 Stat. 946; renumbered Pub. L. 107-314, div. D, title XLVI, § 4602, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(i)(3), Nov. 24, 2003, 117 Stat. 1776; Pub. L. 113-66, div. C, title XXXI, § 3146(g)(2), Dec. 26, 2013, 127 Stat. 1079.)

REFERENCES IN TEXT

The Whistleblower Protection Act of 1989, referred to in subsec. (I), is Pub. L. 101-12, Apr. 10, 1989, 103 Stat. 16, as amended, which enacted subchapters II (§ 1211 et seq.) and III (§ 1221 et seq.) of chapter 12 and section 3352 of Title 5, Government Organization and Employees, amended sections 1201 to 1206, 1209, 1211, 2302, 2303, 3393, 7502, 7512, 7521, 7542, 7701, and 7703 of Title 5 and section 4139 of Title 22, Foreign Relations and Intercourse, repealed sections 1207 and 1208 of Title 5, and enacted provisions set out as notes under sections 1201, 1211, and 5509 of Title 5. For complete classification of this Act to the Code, see Short Title of 1989 Amendment note set out under section 1201 of Title 5 and Tables.

CODIFICATION

Section was formerly classified to section 7239 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (I). Pub. L. 113-66, § 3146(g)(2)(A), substituted “Public Law 101-12; 103 Stat. 16” for “Public Law 101-512”.

Subsec. (n). Pub. L. 113-66, § 3146(g)(2)(B), struck out subsec. (n). Text read as follows: “Not later than December 5, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the implementation of the program required by this section.”

2003—Subsec. (n). Pub. L. 108-136, § 3141(i)(3)(D), substituted “December 5, 1999,” for “60 days after October 5, 1999,”.

§ 2703. Repealed. Pub. L. 113-66, div. C, title XXXI, § 3146(g)(3)(A), Dec. 26, 2013, 127 Stat. 1079

Section, Pub. L. 107-314, div. D, title XLVI, § 4603, formerly Pub. L. 106-398, § 1 [div. C, title XXXI, § 3136], Oct. 30, 2000, 114 Stat. 1654, 1654A-458; renumbered Pub. L. 107-314, div. D, title XLVI, § 4603, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(i)(4), Nov. 24, 2003, 117 Stat. 1777, related to employee incentives for employees at closure project facilities.

§ 2704. Department of Energy defense nuclear facilities workforce restructuring plan

(a) In general

Upon determination that a change in the workforce at a defense nuclear facility is necessary, the Secretary of Energy shall develop a plan for restructuring the workforce for the defense nuclear facility that takes into account—

- (1) the reconfiguration of the defense nuclear facility; and
- (2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) Consultation

(1) In developing a plan referred to in subsection (a), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) Objectives

In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

(1) Changes in the workforce at a Department of Energy defense nuclear facility—

(A) should be accomplished so as to minimize social and economic impacts;

(B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and

(C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.

(2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1682)).

(3) Employees shall, to the extent practicable, be retrained for work in environ-

mental restoration and waste management activities at such facilities or other facilities of the Department of Energy.

(4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.

(5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Secretary of Labor under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.).

(d) Implementation

The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor, workforce bargaining units, and States and local communities in carrying out a plan required under subsection (a).

(e) Submittal to Congress

(1) The Secretary shall submit to Congress a plan referred to in subsection (a) with respect to a defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) is provided to employees of the facility, or 90 days after the date of the enactment of this Act,¹ whichever is later.

(2) In addition to the plans submitted under paragraph (1), the Secretary shall submit to Congress every six months a report setting forth a description of, and the amount or value of, all local impact assistance provided during the preceding six months under subsection (c)(6).

(f) Department of Energy defense nuclear facility defined

In this section, the term “Department of Energy defense nuclear facility” means—

(1) a production facility or utilization facility (as those terms are defined in section 2014 of title 42) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, and the 236 H facility at Savannah River, South Carolina), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

(2) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

(3) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada National Security Site, Nevada, and the Pantex facility, Texas);

(4) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

(5) any facility described in paragraphs (1) through (4) that—

(A) is no longer in operation;

(B) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

(C) was operated for national security purposes.

(Pub. L. 107-314, div. D, title XLVI, §4604, formerly Pub. L. 102-484, div. C, title XXXI, §3161, Oct. 23, 1992, 106 Stat. 2644; Pub. L. 103-337, div. A, title X, §1070(c)(2), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(7)(A), (f)(6)(A)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-419, 2681-430; Pub. L. 107-107, div. A, title X, §1048(h)(1), Dec. 28, 2001, 115 Stat. 1229; renumbered Pub. L. 107-314, div. D, title XLVI, §4604, and amended Pub. L. 108-136, div. C, title XXXI, §3141(i)(5), Nov. 24, 2003, 117 Stat. 1777; Pub. L. 112-239, div. C, title XXXI, §§3131(q)(1), (bb)(1)(A), (C), 3134(b)(1), Jan. 2, 2013, 126 Stat. 2183, 2185, 2193; Pub. L. 113-66, div. C, title XXXI, §3146(g)(4), Dec. 26, 2013, 127 Stat. 1079; Pub. L. 113-128, title V, §512(d), July 22, 2014, 128 Stat. 1706; Pub. L. 113-291, div. C, title XXXI, §3142(o), Dec. 19, 2014, 128 Stat. 3901.)

AMENDMENT OF SUBSECTION (c)(6)(A)

Pub. L. 113-128, title V, §§506, 512(d), July 22, 2014, 128 Stat. 1703, 1706, provided that, effective on the first day of the first full program year after July 22, 2014 [probably July 1, 2015], subsection (c)(6)(A) of this section is amended by striking “programs carried out by the Secretary of Labor under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)” and inserting “programs carried out by the Secretary of Labor under title I of the Workforce Innovation and Opportunity Act”. See 2014 Amendment note below.

REFERENCES IN TEXT

Section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, referred to in subsec. (c)(2), is section 3152 of Pub. L. 101-189, div. C, title XXXI, Nov. 29, 1989, 103 Stat. 1682, which is not classified to the Code.

The Workforce Investment Act of 1998, referred to in subsec. (c)(6)(A), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Public Works and Economic Development Act of 1965, referred to in subsec. (c)(6)(C), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended. Title II of the Act is classified generally to subchapter II (§3141 et

¹ See References in Text note below.

seq.) of chapter 38 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

The date of the enactment of this Act, referred to in subsec. (e)(1), meant Oct. 23, 1992, the date of enactment of Pub. L. 102-484, in this section as originally enacted. As renumbered by Pub. L. 108-136, this section is now part of Pub. L. 107-314, which was approved Dec. 2, 2002.

Executive Order Number 12344, referred to in subsec. (f)(1), is set out as a note under section 2511 of this title.

CODIFICATION

Section was formerly classified to section 7274h of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (c)(6)(A). Pub. L. 113-128, which directed amendment of subpar. (A) by substituting “programs carried out by the Secretary of Labor under title I of the Workforce Innovation and Opportunity Act” for “programs carried out by the Secretary of Labor under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)”, was executed by making the substitution for “programs carried out by the Secretary of Labor under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)” to reflect the probable intent of Congress and the intervening amendment by Pub. L. 105-277, § 101(f) [title VIII, § 405(f)(6)(A)]. See 1998 Amendment note below.

Subsec. (f)(3). Pub. L. 113-291 substituted “Nevada, and” for “Nevada and”.

2013—Subsec. (b)(1). Pub. L. 112-239, § 3134(b)(1)(A), struck out “and any updates of the plan under subsection (e)” after “plan referred to in subsection (a)”.

Subsec. (c)(6)(A). Pub. L. 113-66, § 3146(g)(4)(A), inserted “(29 U.S.C. 2801 et seq.)” after “1998”.

Subsec. (e). Pub. L. 112-239, § 3134(b)(1)(B), (D), redesignated subsec. (f) as (e) and struck out former subsec. (e), which required the Secretary to issue plan updates.

Subsec. (f). Pub. L. 112-239, § 3134(b)(1)(D), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(1). Pub. L. 113-66, § 3146(g)(4)(B), substituted “and the 236 H facility at Savannah River, South Carolina” for “the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio”.

Subsec. (f)(2). Pub. L. 112-239, § 3134(b)(1)(C), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “The Secretary shall submit to Congress any updates of the plan under subsection (e) immediately upon completion of any such update.”

Subsec. (f)(3). Pub. L. 112-239, § 3134(b)(1)(C)(ii), redesignated par. (3) as (2).

Pub. L. 112-239, § 3131(q)(1), added par. (3).

Subsec. (g). Pub. L. 112-239, § 3134(b)(1)(D), redesignated subsec. (g) as (f).

Subsec. (g)(3). Pub. L. 112-239, § 3131(bb)(1)(A), (C), substituted “Nevada National Security Site” for “Nevada Test Site” and struck out “; the Pinnellas Plant, Florida;” before “and the Pantex facility”.

2003—Subsec. (a). Pub. L. 108-136, § 3141(i)(5)(D)(i), struck out “(hereinafter in this subtitle referred to as the ‘Secretary’)” after “Secretary of Energy”.

Subsec. (g). Pub. L. 108-136, § 3141(i)(5)(D)(ii), added subsec. (g).

2001—Subsec. (c)(6)(C). Pub. L. 107-107 substituted “title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.)” for “title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.)”.

1998—Subsec. (c)(6)(A). Pub. L. 105-277, § 101(f) [title VIII, § 405(f)(6)(A)], added subpar. (A) and struck out former subpar. (A) which read as follows: “programs carried out by the Secretary of Labor under the Job

Training Partnership Act or title I of the Workforce Investment Act of 1998;”.

Pub. L. 105-277, § 101(f) [title VIII, § 405(d)(7)(A)], added subpar. (A) and struck out former subpar. (A) which read as follows: “programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);”.

1994—Pub. L. 103-337, § 1070(c)(2)(B), substituted “workforce” for “work force” in section catchline.

Subsec. (a). Pub. L. 103-337, § 1070(c)(2)(A), substituted “workforce for” for “work force for” in introductory provisions.

Subsec. (c)(1). Pub. L. 103-337, § 1070(c)(2)(A), substituted “workforce” for “work force” in introductory provisions.

Subsec. (c)(6)(B). Pub. L. 103-337, § 1070(c)(2)(C), substituted “division D” for “Part D”.

Subsec. (d). Pub. L. 103-337, § 1070(c)(2)(A), substituted “workforce” for “work force”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 [probably July 1, 2015], see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(7)(A)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(6)(A)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title X, § 1070(c), Oct. 5, 1994, 108 Stat. 2857, provided that the amendment made by that section is effective as of Oct. 23, 1992, and as if included in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102-484, as enacted.

§ 2705. Authority to provide certificate of commendation to Department of Energy and contractor employees for exemplary service in stockpile stewardship and security

(a) Authority to present certificate of commendation

The Secretary of Energy may present a certificate of commendation to any current or former employee of the Department of Energy, and any current or former employee of a Department contractor, whose service to the Department in matters relating to stockpile stewardship and security assisted the Department in furthering the national security interests of the United States.

(b) Certificate

The certificate of commendation presented to a current or former employee under subsection (a) shall include an appropriate citation of the service of the current or former employee described in that subsection, including a citation for dedication, intellect, and sacrifice in furthering the national security interests of the United States by maintaining a strong, safe, and viable United States nuclear deterrent during the cold war or thereafter.

(c) Department of Energy defined

For purposes of this section, the term “Department of Energy” includes any predecessor agency of the Department of Energy.

(Pub. L. 107-314, div. D, title XLVI, §4605, formerly Pub. L. 106-398, §1 [div. C, title XXXI, §3195], Oct. 30, 2000, 114 Stat. 1654, 1654A-481; renumbered Pub. L. 107-314, div. D, title XLVI, §4605, by Pub. L. 108-136, div. C, title XXXI, §3141(i)(6), Nov. 24, 2003, 117 Stat. 1778; Pub. L. 113-66, div. C, title XXXI, §3146(g)(5), Dec. 26, 2013, 127 Stat. 1079.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (b). Pub. L. 113-66 substituted “cold war” for “Cold War”.

PART B—EDUCATION AND TRAINING

§ 2721. Executive management training in Department of Energy

(a) Establishment of training program

The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) Training provisions

The training program shall at a minimum include instruction in the following areas:

- (1) Department of Energy policy and procedures for management and operation of atomic energy defense facilities.
- (2) Methods of evaluating technical performance.
- (3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.
- (4) The establishment of program milestones and methods to evaluate success in meeting such milestones.
- (5) Methods for conducting long-range technical and budget planning.
- (6) Procedures for reviewing and applying innovative technology to defense environmental cleanup.

(Pub. L. 107-314, div. D, title XLVI, §4621, formerly Pub. L. 101-189, div. C, title XXXI, §3142, Nov. 29, 1989, 103 Stat. 1680; renumbered Pub. L. 107-314, div. D, title XLVI, §4621, and amended Pub. L. 108-136, div. C, title XXXI, §3141(i)(8), Nov. 24, 2003, 117 Stat. 1778; Pub. L. 113-66, div. C, title XXXI, §3146(g)(6), Dec. 26, 2013, 127 Stat. 1080.)

CODIFICATION

Section was formerly classified to section 7236 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (b)(6). Pub. L. 113-66 substituted “defense environmental cleanup” for “environmental restoration and defense waste management”.

2003—Pub. L. 108-136, §3141(i)(8)(D), made technical amendment to section catchline.

§ 2722. Stockpile stewardship recruitment and training program

(a) Conduct of program

(1) As part of the stockpile stewardship program established pursuant to section 2521 of this title, the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the national security laboratories.

(2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 of title 10 and the directors of the laboratories referred to in paragraph (1).

(b) Support of dual-use programs

As part of the recruitment and training program, the directors of the national security laboratories may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(c) Establishment of retiree corps

As part of the training and recruitment program, the Secretary, in coordination with the directors of the national security laboratories, shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

(Pub. L. 107-314, div. D, title XLVI, §4622, formerly Pub. L. 103-337, div. C, title XXXI, §3131, Oct. 5, 1994, 108 Stat. 3085; renumbered Pub. L. 107-314, div. D, title XLVI, §4622, and amended Pub. L. 108-136, div. C, title XXXI, §3141(i)(9), Nov. 24, 2003, 117 Stat. 1778; Pub. L. 112-239, div. C, title XXXI, §3131(r), Jan. 2, 2013, 126 Stat. 2184; Pub. L. 113-66, div. C, title XXXI, §3146(g)(7), Dec. 26, 2013, 127 Stat. 1080.)

AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 113-66, §3146(g)(7)(A), substituted “national security laboratories” for “Sandia National Laboratories, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory”.

Subsec. (b). Pub. L. 113-66, §3146(g)(7)(B), substituted “national security laboratories” for “laboratories referred to in subsection (a)(1)”.

Pub. L. 112-239, §3131(r)(1), struck out par. (1) designation and struck out par. (2) which read as follows: “Of the amounts authorized to be appropriated to the Secretary of Energy in section 3101(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) for weapons activities for core research and development and allocated by the Secretary for education initiatives, \$5,000,000 shall be available for employing students and fellows to carry out research referred to in paragraph (1). The amount available under this paragraph shall be allocated equally among the laboratories referred to in subsection (a)(1).”

Subsec. (c). Pub. L. 113-66, §3146(g)(7)(B), substituted “national security laboratories” for “laboratories referred to in subsection (a)(1)”.

Subsec. (d). Pub. L. 112-239, §3131(r)(2), struck out subsec. (d), which required the Secretary to submit to

the Committees on Armed Services of the Senate and House of Representatives a report on the demographic trends of personnel.

2003—Subsec. (a)(1). Pub. L. 108-136, § 3141(i)(9)(D)(i), substituted “section 2521 of this title” for “section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1946; 42 U.S.C. 2121 note)”.

Subsec. (b)(2). Pub. L. 108-136, § 3141(i)(9)(D)(ii), inserted “of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337)” after “section 3101(a)(1)”.

§ 2723. Fellowship program for development of skills critical to the nuclear security enterprise

(a) In general

The Secretary of Energy shall conduct a fellowship program for the development of skills critical to the ongoing mission of the nuclear security enterprise. Under the fellowship program, the Secretary shall provide educational assistance and research assistance to eligible individuals to facilitate the development by such individuals of skills critical to maintaining the ongoing mission of the nuclear security enterprise.

(b) Eligible individuals

Individuals eligible for participation in the fellowship program are United States citizens who are either of the following:

- (1) Students pursuing graduate degrees in fields of science or engineering that are related to nuclear weapons engineering or to the science and technology base of the Department of Energy.
- (2) Individuals engaged in postdoctoral studies in such fields.

(c) Covered facilities

The Secretary shall carry out the fellowship program at or in connection with the national security laboratories and nuclear weapons production facilities.

(d) Administration

The Secretary shall carry out the fellowship program at a facility referred to in subsection (c) through the stockpile manager of the facility.

(e) Allocation of funds

The Secretary shall, in consultation with the Assistant Secretary of Energy for Defense Programs, allocate funds available for the fellowship program under subsection (f) among the facilities referred to in subsection (c). The Secretary shall make the allocation after evaluating an assessment by the weapons program director of each such facility of the personnel and critical skills necessary at the facility for carrying out the ongoing mission of the facility.

(f) Agreement

(1) The Secretary may allow an individual to participate in the program only if the individual signs an agreement described in paragraph (2).

(2) An agreement referred to in paragraph (1) shall be in writing, shall be signed by the participant, and shall include the participant's agreement to serve, after completion of the course of study for which the assistance was provided, as a full-time employee in a position in

the nuclear security enterprise for a period of time to be established by the Secretary of Energy of not less than one year, if such a position is offered to the participant.

(Pub. L. 107-314, div. D, title XLVI, § 4623, formerly Pub. L. 104-106, div. C, title XXXI, § 3140, Feb. 10, 1996, 110 Stat. 621; Pub. L. 106-65, div. C, title XXXI, § 3162(a)-(d), Oct. 5, 1999, 113 Stat. 943; renumbered Pub. L. 107-314, div. D, title XLVI, § 4623, by Pub. L. 108-136, div. C, title XXXI, § 3141(i)(10), Nov. 24, 2003, 117 Stat. 1779; Pub. L. 112-239, div. C, title XXXI, § 3131(s)(1), Jan. 2, 2013, 126 Stat. 2184; Pub. L. 113-66, div. C, title XXXI, § 3146(g)(8), Dec. 26, 2013, 127 Stat. 1080.)

CODIFICATION

Section was formerly set out as a note under section 2121 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 112-239, § 3131(s)(1)(A), substituted “nuclear security enterprise” for “Department of Energy nuclear weapons complex” in section catchline.

Subsec. (a). Pub. L. 112-239, § 3131(s)(1)(B), substituted “nuclear security enterprise” for “Department of Energy nuclear weapons complex” in two places.

Subsec. (b). Pub. L. 113-66 inserted “either of” after “who are” in introductory provisions.

Subsec. (c). Pub. L. 112-239, § 3131(s)(1)(C), substituted “national security laboratories and nuclear weapons production facilities.” for “following facilities:

“(1) The Kansas City Plant, Kansas City, Missouri.

“(2) The Pantex Plant, Amarillo, Texas.

“(3) The Y-12 Plant, Oak Ridge, Tennessee.

“(4) The Savannah River Site, Aiken, South Carolina.

“(5) The Lawrence Livermore National Laboratory, Livermore, California.

“(6) The Los Alamos National Laboratory, Los Alamos, New Mexico.

“(7) The Sandia National Laboratories, Albuquerque, New Mexico, and Livermore, California.”

Subsec. (f)(2). Pub. L. 112-239, § 3131(s)(1)(D), substituted “the nuclear security enterprise for” for “the Department of Energy for”.

1999—Subsec. (a). Pub. L. 106-65, § 3162(a), substituted “Secretary shall” for “Secretary shall—”, struck out par. (1) designation before “provide educational assistance”, and struck out pars. (2) and (3) which read as follows:

“(2) employ eligible individuals at the facilities described in subsection (c) in order to facilitate the development of such skills by these individuals; or

“(3) provide eligible individuals with the assistance and the employment.”

Subsec. (b). Pub. L. 106-65, § 3162(b), inserted “are United States citizens who” after “program” in introductory provisions.

Subsec. (c)(5) to (7). Pub. L. 106-65, § 3162(c), added pars. (5) to (7).

Subsec. (f). Pub. L. 106-65, § 3162(d), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1996 under section 3101(b), \$10,000,000 may be used for the purpose of carrying out the fellowship program under this section.”

PART C—WORKER SAFETY

§ 2731. Worker protection at nuclear weapons facilities

(a) Training grant program

(1) The Secretary of Energy is authorized to award grants to organizations referred to in paragraph (2) in order for such organizations—

(A) to provide training and education to persons who are or may be engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and

(B) to develop curricula for such training and education.

(2)(A) Subject to subparagraph (B), the Secretary is authorized to award grants under paragraph (1) to non-profit organizations that have demonstrated (as determined by the Secretary) capabilities in—

(i) implementing and conducting effective training and education programs relating to the general health and safety of workers; and

(ii) identifying, and involving in training, groups of workers whose duties include hazardous substance response or emergency response.

(B) The Secretary shall give preference in the award of grants under this section to employee organizations and joint labor-management training programs that are grant recipients under section 9660a of title 42.

(3) An organization awarded a grant under paragraph (1) shall carry out training, education, or curricula development pursuant to Department of Energy orders relating to employee safety training, including orders numbered 5480.4 and 5480.11.

(b) Enforcement of employee safety standards

(1) Subject to paragraph (2), the Secretary shall assess civil penalties against any contractor of the Department of Energy who (as determined by the Secretary)—

(A) employs individuals who are engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and

(B) fails (i) to provide for the training of such individuals to carry out such hazardous substance response or emergency response, or (ii) to certify to the Department of Energy that such employees are adequately trained for such response pursuant to orders issued by the Department of Energy relating to employee safety training (including orders numbered 5480.4 and 5480.11).

(2) Civil penalties assessed under this subsection may not exceed \$5,000 for each day in which a failure referred to in paragraph (1)(B) occurs.

(c) Regulations

The Secretary shall prescribe regulations to carry out this section.

(d) Definitions

For the purposes of this section, the term “hazardous substance” includes radioactive waste and mixed radioactive and hazardous waste.

(Pub. L. 107–314, div. D, title XLVI, §4641, formerly Pub. L. 102–190, div. C, title XXXI, §3131, Dec. 5, 1991, 105 Stat. 1571; renumbered Pub. L. 107–314, div. D, title XLVI, §4641, and amended Pub. L. 108–136, div. C, title XXXI, §3141(i)(12), Nov. 24, 2003, 117 Stat. 1779; Pub. L. 113–66, div. C, title XXXI, §3146(g)(9), Dec. 26, 2013, 127 Stat. 1080.)

CODIFICATION

Section was formerly classified to section 7274d of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Subsec. (e). Pub. L. 113–66 struck out subsec. (e). Text read as follows: “Of the funds authorized to be appropriated pursuant to section 3101(9)(A) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190), \$10,000,000 may be used for the purpose of carrying out this section.”

2003—Subsec. (e). Pub. L. 108–136, §3141(i)(12)(D), inserted “of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190)” after “section 3101(9)(A)”.

§ 2732. Safety oversight and enforcement at defense nuclear facilities

The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in, or who are advising persons who are engaged in, management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) who have authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(Pub. L. 107–314, div. D, title XLVI, §4642, formerly Pub. L. 103–337, div. C, title XXXI, §3163, Oct. 5, 1994, 108 Stat. 3097; renumbered Pub. L. 107–314, div. D, title XLVI, §4642, and amended Pub. L. 108–136, div. C, title XXXI, §3141(i)(13), Nov. 24, 2003, 117 Stat. 1779; Pub. L. 113–66, div. C, title XXXI, §3146(g)(10), Dec. 26, 2013, 127 Stat. 1080.)

CODIFICATION

Section was formerly classified to section 7274m of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 113-66 struck out subsec. (a) designation and heading and subsec. (b) which required report regarding fulfillment of safety oversight requirements.

2003—Subsec. (b). Pub. L. 108-136, §3141(i)(13)(D), substituted “January 5, 1995,” for “90 days after October 5, 1994,”.

§ 2733. Program to monitor Department of Energy workers exposed to hazardous and radioactive substances

(a) In general

The Secretary of Energy shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

(b) Implementation of program

(1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations under which the Secretary shall implement the program. Such regulations shall, to the extent practicable, provide for a process to—

(A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;

(B) identify employees referred to in subparagraph (A) who received a level of exposure identified under paragraph (2)(B);

(C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to employees who have received a level of exposure identified under paragraph (2)(B) to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;

(D) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in such subparagraph;

(E) ensure that privacy is maintained with respect to medical information that personally identifies any such employee; and

(F) ensure that employee participation in the program is voluntary.

(2)(A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (D) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).

(B) The Secretary of Health and Human Services, with the assistance of the Director of the Centers for Disease Control and Prevention and the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall identify the levels of exposure to the substances referred to in subparagraph (A) of paragraph (1) that present employees referred to in such subparagraph with significant health

risks under Federal and State occupational, health, and safety standards.

(3) In prescribing the guidelines referred to in paragraph (1), the Secretary shall consult with representatives of the following entities:

(A) The American College of Occupational and Environmental Medicine.

(B) The National Academy of Sciences.

(C) The National Council on Radiation Protection and Measurements.

(D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.

(4) The Secretary shall provide for each employee identified under paragraph (1)(B) and provided with any medical examination or test under paragraph (1) to be notified by the appropriate medical personnel of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.

(5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1).

(6) The Secretary shall commence carrying out the program described in this subsection not later than October 23, 1993.

(c) Agreement with Secretary of Health and Human Services

Not later than April 23, 1993, the Secretary shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment and conduct of the program required and regulations issued under this section.

(d) Definitions

In this section:

(1) The term “Department of Energy defense nuclear facility” has the meaning given that term in section 2704(f) of this title.

(2) The term “Department of Energy employee” means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor or subcontractor of the Department of Energy employed at such a facility.

(Pub. L. 107-314, div. D, title XLVI, §4643, formerly Pub. L. 102-484, div. C, title XXXI, §3162, Oct. 23, 1992, 106 Stat. 2646; renumbered Pub. L. 107-314, div. D, title XLVI, §4643, and amended Pub. L. 108-136, div. C, title XXXI, §3141(i)(14), Nov. 24, 2003, 117 Stat. 1779; Pub. L. 112-239, div. C, title XXXI, §3134(b)(2), Jan. 2, 2013, 126 Stat. 2193; Pub. L. 113-66, div. C, title XXXI, §3146(g)(11), Dec. 26, 2013, 127 Stat. 1080.)

CODIFICATION

Section was formerly classified to section 7274i of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-66, §3146(g)(11)(A), inserted “of Energy” after “Secretary”.

Subsec. (b)(2)(B). Pub. L. 113-66, §3146(g)(11)(B)(i), inserted “and Prevention” after “Disease Control” and substituted a period for semicolon at end.

Subsec. (b)(3)(C). Pub. L. 113-66, §3146(g)(11)(B)(ii), inserted “and Measurements” after “Radiation Protection”.

Subsec. (b)(4). Pub. L. 113-66, §3146(g)(11)(B)(iii), substituted “paragraph (1)(B)” for “paragraph (1)(D)” and “paragraph (1)” for “paragraph (1)(E)”.

Subsec. (b)(5). Pub. L. 113-66, §3146(g)(11)(B)(iv), substituted “paragraph (1)” for “paragraph (1)(E)”.

Subsec. (d)(1). Pub. L. 112-239 substituted “section 2704(f)” for “section 2704(g)”.

2003—Subsec. (b)(6). Pub. L. 108-136, §3141(i)(14)(D)(i), substituted “October 23, 1993” for “1 year after October 23, 1992”.

Subsec. (c). Pub. L. 108-136, §3141(i)(14)(D)(ii), substituted “April 23, 1993,” for “180 days after October 23, 1992.”

Subsec. (d). Pub. L. 108-136, §3141(i)(14)(D)(iii), added subsec. (d).

§ 2734. Programs for persons who may have been exposed to radiation released from Hanford Nuclear Reservation

(a) Funding

Of the funds authorized to be appropriated to the Department of Energy under title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510), the Secretary of Energy shall make available \$3,000,000 to the State of Washington, \$1,000,000 to the State of Oregon, and \$1,000,000 to the State of Idaho. Such funds shall be used to develop and implement programs for the benefit of persons who may have been exposed to radiation released from the Department of Energy Hanford Nuclear Reservation (Richland, Washington) between the years 1944 and 1972.

(b) Programs

The programs to be developed by the States may include only the following activities:

(1) Preparing and distributing information on the health effects of radiation to health care professionals, and to persons who may have been exposed to radiation.

(2) Developing and implementing mechanisms for referring persons who may have been exposed to radiation to health care professionals with expertise in the health effects of radiation.

(3) Evaluating and, if feasible, implementing, registration and monitoring of persons who may have been exposed to radiation released from the Hanford Nuclear Reservation.

(c) Plan and reports

(1) The States of Washington, Oregon, and Idaho shall jointly develop a single plan for implementing this section.

(2) Not later than May 5, 1991, such States shall submit to the Secretary of Energy and Congress a copy of the plan developed under paragraph (1).

(3) Not later than May 5, 1992, such States shall submit to the Secretary of Energy and Congress a single report on the implementation of the plan developed under paragraph (1).

(4) In developing and implementing the plan, such States shall consult with persons carrying out current radiation dose and epidemiological research programs (including the Hanford Thyroid Disease Study of the Centers for Disease Control and Prevention and the Hanford Environmental Dose Reconstruction Project of the

Department of Energy), and may not cause substantial damage to such research programs.

(d) Prohibition on disclosure of exposure information

(1) Except as provided in paragraph (2), a person may not disclose to the public the following:

(A) Any information obtained through a program that identifies a person who may have been exposed to radiation released from the Hanford Nuclear Reservation.

(B) Any information obtained through a program that identifies a person participating in any of the programs developed under this section.

(C) The name, address, and telephone number of a person requesting information referred to in subsection (b)(1).

(D) The name, address, and telephone number of a person who has been referred to a health care professional under subsection (b)(2).

(E) The name, address, and telephone number of a person who has been registered and monitored pursuant to subsection (b)(3).

(F) Information that identifies the person from whom information referred to in this paragraph was obtained under a program or any other third party involved with, or identified by, any such information so obtained.

(G) Any other personal or medical information that identifies a person or party referred to in subparagraphs (A) through (F).

(H) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

(2) Information referred to in paragraph (1) may be disclosed to the public if the person identified by the information, or the legal representative of that person, has consented in writing to the disclosure.

(3) The States of Washington, Oregon, and Idaho shall establish uniform procedures for carrying out this subsection, including procedures governing the following:

(A) The disclosure of information under paragraph (2).

(B) The use of the Hanford Health Information Network database.

(C) The future disposition of the database.

(D) Enforcement of the prohibition provided in paragraph (1) on the disclosure of information described in that paragraph.

(Pub. L. 107-314, div. D, title XLVI, §4644, formerly Pub. L. 101-510, div. C, title XXXI, §3138, Nov. 5, 1990, 104 Stat. 1834; Pub. L. 103-337, div. C, title XXXI, §3138(b), Oct. 5, 1994, 108 Stat. 3087; renumbered Pub. L. 107-314, div. D, title XLVI, §4644, and amended Pub. L. 108-136, div. C, title XXXI, §3141(i)(15), Nov. 24, 2003, 117 Stat. 1780; Pub. L. 113-66, div. C, title XXXI, §3146(g)(12), Dec. 26, 2013, 127 Stat. 1080.)

REFERENCES IN TEXT

Title XXXI of the National Defense Authorization Act for Fiscal Year 1991, referred to in subsec. (a), is title XXXI of div. C of Pub. L. 101-510, Nov. 5, 1990, 104 Stat. 1824, as amended. For complete classification of title XXXI to the Code, see Tables.

AMENDMENTS

2013—Subsec. (c)(2), (3). Pub. L. 113–66, § 3146(g)(12)(A), substituted “Congress” for “the Congress”.

Subsec. (c)(4). Pub. L. 113–66, § 3146(g)(12)(B), inserted “and Prevention” after “Disease Control”.

2003—Pub. L. 108–136, § 3141(i)(15)(D)(i), made technical amendment to section catchline.

Subsec. (a). Pub. L. 108–136, § 3141(i)(15)(D)(ii), substituted “title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510)” for “this title”.

Subsec. (c)(2). Pub. L. 108–136, § 3141(i)(15)(D)(iii)(I), substituted “May 5, 1991,” for “six months after the date of the enactment of this Act.”.

Subsec. (c)(3). Pub. L. 108–136, § 3141(i)(15)(D)(iii)(II), substituted “May 5, 1992,” for “18 months after the date of the enactment of this Act.”.

1994—Subsec. (d). Pub. L. 103–337 added subsec. (d).

§ 2735. Use of probabilistic risk assessment to ensure nuclear safety of facilities of the Administration and the Office of Environmental Management

(a) Nuclear safety at NNSA and DOE facilities

The Administrator and the Secretary of Energy shall ensure that the methods for assessing, certifying, and overseeing nuclear safety at the facilities specified in subsection (c) use national and international standards and nuclear industry best practices, including probabilistic or quantitative risk assessment if sufficient data exist.

(b) Adequate protection

The use of probabilistic or quantitative risk assessment under subsection (a) shall be to support, rather than replace, the requirement under section 2232 of title 42 that the utilization or production of special nuclear material will be in accordance with the common defense and security and will provide adequate protection to the health and safety of the public.

(c) Facilities specified

Subsection (a) shall apply—

(1) to the Administrator with respect to the national security laboratories and the nuclear weapons production facilities; and

(2) to the Secretary of Energy with respect to defense nuclear facilities of the Office of Environmental Management of the Department of Energy.

(Pub. L. 107–314, div. D, title XLVI, § 4645, as added Pub. L. 112–239, div. C, title XXXI, § 3161(a), Jan. 2, 2013, 126 Stat. 2203.)

§ 2736. Notification of nuclear criticality and non-nuclear incidents

(a) Notification

The Secretary of Energy or the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of a nuclear criticality incident resulting from a covered program that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility by not later than 15 days after the date of such incident.

(b) Elements of notification

Each notification submitted under subsection (a) shall include the following:

(1) A description of the incident, including the cause of the incident.

(2) In the case of a criticality incident, whether the incident caused a facility, or part of a facility, to be shut down.

(3) The effect, if any, on the mission of the Administration or the Office of Environmental Management of the Department of Energy.

(4) Any corrective action taken in response to the incident.

(c) Database

(1) The Secretary shall maintain a record of incidents described in paragraph (2).

(2) An incident described in this paragraph is any of the following incidents resulting from a covered program:

(A) A nuclear criticality incident that results in an injury or fatality or results in the shutdown, or partial shutdown, of a covered facility.

(B) A non-nuclear incident that results in serious bodily injury or fatality at a covered facility.

(d) Cooperation

In carrying out this section, the Secretary and the Administrator shall ensure that each management and operating contractor of a covered facility cooperates in a timely manner.

(e) Definitions

In this section:

(1) The term “appropriate congressional committees” means—

(A) the congressional defense committees; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The term “covered facility” means—

(A) a facility of the nuclear security enterprise; and

(B) a facility conducting activities for the defense environmental cleanup program of the Office of Environmental Management of the Department of Energy.

(3) The term “covered program” means—

(A) programs of the Administration; and

(B) defense environmental cleanup programs of the Office of Environmental Management of the Department of Energy.

(Pub. L. 107–314, div. D, title XLVI, § 4646, as added Pub. L. 112–239, div. C, title XXXI, § 3142(a)(1), Jan. 2, 2013, 126 Stat. 2194; amended Pub. L. 113–66, div. C, title XXXI, § 3146(g)(13), Dec. 26, 2013, 127 Stat. 1080.)

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–66 substituted “Energy or” for “Energy and”.

SUBCHAPTER VII—BUDGET AND FINANCIAL MANAGEMENT MATTERS

PART A—RECURRING NATIONAL SECURITY AUTHORIZATION PROVISIONS

§ 2741. Definitions

In this part:

(1) The term “DOE national security authorization” means an authorization of appropria-

tions for activities of the Department of Energy in carrying out programs necessary for national security.

(2) The term “minor construction threshold” means \$10,000,000.

(Pub. L. 107–314, div. D, title XLVII, §4701, formerly div. C, title XXXVI, §3620, Dec. 2, 2002, 116 Stat. 2756; renumbered div. D, title XLVII, §4701, by Pub. L. 108–136, div. C, title XXXI, §3141(j)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 111–84, div. C, title XXXI, §3118(a), (b), Oct. 28, 2009, 123 Stat. 2709; Pub. L. 111–383, div. C, title XXXI, §3121(a), Jan. 7, 2011, 124 Stat. 4514; Pub. L. 113–66, div. C, title XXXI, §3146(a)(2)(I), Dec. 26, 2013, 127 Stat. 1073.)

CODIFICATION

Section was formerly classified to section 7386 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Pars. (2), (3). Pub. L. 113–66 redesignated par. (3) as (2) and struck out former par. (2) which defined “congressional defense committees”.

2011—Par. (3). Pub. L. 111–383 substituted “\$10,000,000” for “\$5,000,000”.

2009—Par. (3). Pub. L. 111–84, §3118(b), substituted “\$5,000,000” for “\$10,000,000”.

Pub. L. 111–84, §3118(a), substituted “\$10,000,000” for “\$5,000,000”.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. C, title XXXI, §3118(b), Oct. 28, 2009, 123 Stat. 2709, provided that the amendment made by section 3118(b) is effective Sept. 30, 2010.

§ 2742. Reprogramming

(a) In general

Except as provided in subsection (b) and in sections 2750 and 2751 of this title, the Secretary of Energy may not use amounts appropriated pursuant to a DOE national security authorization for a program—

(1) in amounts that exceed, in a fiscal year—

(A) 115 percent of the amount authorized for that program by that authorization for that fiscal year; or

(B) \$5,000,000 more than the amount authorized for that program by that authorization for that fiscal year; or

(2) which has not been presented to, or requested of, Congress.

(b) Exception where notice-and-wait given

An action described in subsection (a) may be taken if—

(1) the Secretary submits to the congressional defense committees a report referred to in subsection (c) with respect to such action; and

(2) a period of 30 days has elapsed after the date on which such committees receive the report.

(c) Report

The report referred to in this subsection is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(d) Computation of days

In the computation of the 30-day period under subsection (b), there shall be excluded any day

on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(e) Limitations

(1) Total amount obligated

In no event may the total amount of funds obligated pursuant to a DOE national security authorization for a fiscal year exceed the total amount authorized to be appropriated by that authorization for that fiscal year.

(2) Prohibited items

Funds appropriated pursuant to a DOE national security authorization may not be used for an item for which Congress has specifically denied funds.

(Pub. L. 107–314, div. D, title XLVII, §4702, formerly div. C, title XXXVI, §3621, Dec. 2, 2002, 116 Stat. 2757; renumbered div. D, title XLVII, §4702, and amended Pub. L. 108–136, div. C, title XXXI, §3141(j)(2)(A)–(D)(i), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 113–66, div. C, title XXXI, §3146(h)(1), Dec. 26, 2013, 127 Stat. 1080.)

CODIFICATION

Section was formerly classified to section 7386a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Subsec. (c). Pub. L. 113–66 substituted “this subsection” for “subsection (a)”.

2003—Subsec. (a). Pub. L. 108–136, §3141(j)(2)(D)(i), in introductory provisions, made technical amendment to reference in original act which appears in text as reference to sections 2750 and 2751 of this title.

§ 2743. Minor construction projects

(a) Authority

Using operation and maintenance funds or facilities and infrastructure funds authorized by a DOE national security authorization, the Secretary of Energy may carry out minor construction projects.

(b) Annual report

The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding fiscal year. Each report shall provide a brief description of each minor construction project covered by the report.

(c) Cost variation reports to congressional committees

If, at any time during the construction of any minor construction project authorized by a DOE national security authorization, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.

(d) Minor construction project defined

In this section, the term “minor construction project” means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold.

(Pub. L. 107-314, div. D, title XLVII, §4703, formerly div. C, title XXXVI, §3622, Dec. 2, 2002, 116 Stat. 2757; renumbered div. D, title XLVII, §4703, by Pub. L. 108-136, div. C, title XXXI, §3141(j)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1781.)

CODIFICATION

Section was formerly classified to section 7386b of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

NOTIFICATION

Pub. L. 111-84, div. C, title XXXI, §3118(c), Oct. 28, 2009, 123 Stat. 2709, as amended by Pub. L. 111-383, div. C, title XXXI, §3121(b), Jan. 7, 2011, 124 Stat. 4514, provided that: “Notwithstanding section 4703 of such Act [probably means section 4703 of Pub. L. 111-84] (50 U.S.C. 2743), in carrying out construction projects, the Secretary of Energy may not start a general plant project with a total estimated cost of more than \$5,000,000 until—

“(1) the Secretary notifies the congressional defense committees [Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives] of such project and total estimated cost; and

“(2) a period of 15 days has elapsed after the date on which such notification is received.”

§ 2743a. General plant projects

Plant or construction projects for which amounts are made available under this and subsequent appropriation Acts with a current estimated cost of less than \$10,000,000 are considered for purposes of section 2743 of this title as a plant project for which the approved total estimated cost does not exceed the minor construction threshold and for purposes of section 2744 of this title as a construction project with a current estimated cost of less than a minor construction threshold.

(Pub. L. 112-74, div. B, title III, §306, Dec. 23, 2011, 125 Stat. 877.)

REFERENCES IN TEXT

This Act, referred to in text, is div. B of Pub. L. 112-74, Dec. 23, 2011, 125 Stat. 852, known as the Energy and Water Development and Related Agencies Appropriations Act, 2012. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2012, and also as part of the Consolidated Appropriations Act, 2012, and not as part of the Atomic Energy Defense Act which comprises this chapter.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation act:

Pub. L. 111-8, div. C, title III, §310, Mar. 11, 2009, 123 Stat. 627.

§ 2744. Limits on construction projects

(a) Construction cost ceiling

Except as provided in subsection (b), construction on a construction project which is in support of national security programs of the Department of Energy and was authorized by a DOE national security authorization may not be started, and additional obligations in connection

with the project above the total estimated cost may not be incurred, whenever the current estimated cost of the construction project exceeds by more than 25 percent the higher of—

(1) the amount authorized for the project; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) Exception where notice-and-wait given

An action described in subsection (a) may be taken if—

(1) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) Computation of days

In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(d) Exception for minor projects

Subsection (a) does not apply to a construction project with a current estimated cost of less than the minor construction threshold.

(Pub. L. 107-314, div. D, title XLVII, §4704, formerly div. C, title XXXVI, §3623, Dec. 2, 2002, 116 Stat. 2758; renumbered div. D, title XLVII, §4704, by Pub. L. 108-136, div. C, title XXXI, §3141(j)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1781.)

CODIFICATION

Section was formerly classified to section 7386c of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

§ 2745. Fund transfer authority

(a) Transfer to other Federal agencies

The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) Transfer within Department of Energy

(1) Transfers permitted

Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to any other DOE national security authorization. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Maximum amounts

Not more than 5 percent of any such authorization may be transferred to another author-

ization under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(c) Limitations

The authority provided by this subsection to transfer authorizations—

(1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) Notice to Congress

The Secretary of Energy shall promptly notify the congressional defense committees of any transfer of funds to or from any DOE national security authorization.

(Pub. L. 107–314, div. D, title XLVII, § 4705, formerly div. C, title XXXVI, § 3624, Dec. 2, 2002, 116 Stat. 2758; renumbered div. D, title XLVII, § 4705, by Pub. L. 108–136, div. C, title XXXI, § 3141(j)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1781.)

CODIFICATION

Section was formerly classified to section 7386d of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

§ 2746. Conceptual and construction design

(a) Conceptual design

(1) Requirement

Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) Requests for conceptual design funds

If the estimated cost of completing a conceptual design for a construction project exceeds \$3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) Exceptions

The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than the minor construction threshold; or

(B) for emergency planning, design, and construction activities under section 2747 of this title.

(b) Construction design

(1) Authority

Within the amounts authorized by a DOE national security authorization, the Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed \$1,000,000.

(2) Limitation on availability of funds for certain projects

If the total estimated cost for construction design in connection with any construction project exceeds \$1,000,000, funds for that design must be specifically authorized by law.

(Pub. L. 107–314, div. D, title XLVII, § 4706, formerly div. C, title XXXVI, § 3625, Dec. 2, 2002, 116 Stat. 2759; renumbered div. D, title XLVII, § 4706, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(j)(2)(A)–(C), (D)(ii), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 113–66, div. C, title XXXI, § 3120, Dec. 26, 2013, 127 Stat. 1059.)

CODIFICATION

Section was formerly classified to section 7386e of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Subsec. (b). Pub. L. 113–66 substituted “\$1,000,000” for “\$600,000” in two places.

2003—Subsec. (a)(3)(B). Pub. L. 108–136, § 3141(j)(2)(D)(ii), made technical amendment to reference in original act which appears in text as reference to section 2747 of this title.

§ 2747. Authority for emergency planning, design, and construction activities

(a) Authority

The Secretary of Energy may use any funds available to the Department of Energy pursuant to a DOE national security authorization, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) Limitation

The Secretary may not exercise the authority under subsection (a) in the case of a construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

(c) Specific authority

The requirement of section 2746(b)(2) of this title does not apply to emergency planning, design, and construction activities conducted under this section.

(Pub. L. 107–314, div. D, title XLVII, § 4707, formerly div. C, title XXXVI, § 3626, Dec. 2, 2002, 116 Stat. 2759; renumbered div. D, title XLVII, § 4707, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(j)(2)(A)–(C), (D)(iii), Nov. 24, 2003, 117 Stat. 1781.)

CODIFICATION

Section was formerly classified to section 7386f of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–136, § 3141(j)(2)(D)(iii), made technical amendment to reference in original act

which appears in text as reference to section 2746(b)(2) of this title.

§ 2748. Scope of authority to carry out plant projects

In carrying out programs necessary for national security, the authority of the Secretary of Energy to carry out plant projects includes authority for maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto.

(Pub. L. 107-314, div. D, title XLVII, §4708, formerly div. C, title XXXVI, §3627, Dec. 2, 2002, 116 Stat. 2760; renumbered div. D, title XLVII, §4708, by Pub. L. 108-136, div. C, title XXXI, §3141(j)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1781.)

CODIFICATION

Section was formerly classified to section 7386g of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

§ 2749. Availability of funds

(a) In general

Except as provided in subsection (b), amounts appropriated pursuant to a DOE national security authorization for operation and maintenance or for plant projects may, when so specified in an appropriations Act, remain available until expended.

(b) Exception for program direction funds

Amounts appropriated for program direction pursuant to a DOE national security authorization for a fiscal year shall remain available to be obligated only until the end of that fiscal year.

(Pub. L. 107-314, div. D, title XLVII, §4709, formerly div. C, title XXXVI, §3628, Dec. 2, 2002, 116 Stat. 2760; renumbered div. D, title XLVII, §4709, by Pub. L. 108-136, div. C, title XXXI, §3141(j)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 113-291, div. C, title XXXI, §3142(p), Dec. 19, 2014, 128 Stat. 3901.)

CODIFICATION

Section was formerly classified to section 7386h of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-291 substituted “authorization” for “authorization”.

§ 2750. Transfer of defense environmental cleanup funds

(a) Transfer authority for defense environmental cleanup funds

The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental cleanup funds from a program or project under the jurisdiction of that office to another such program or project.

(b) Limitations

(1) Number of transfers

Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) Amounts transferred

The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed \$5,000,000.

(3) Determination required

A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary—

(A) to address a risk to health, safety, or the environment; or

(B) to assure the most efficient use of defense environmental cleanup funds at the field office.

(4) Impermissible uses

Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) Exemption from reprogramming requirements

The requirements of section 2742 of this title shall not apply to transfers of funds pursuant to subsection (a).

(d) Notification

The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) Definitions

In this section:

(1) The term “program or project” means, with respect to a field office of the Department of Energy, a program or project that is for defense environmental cleanup activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental cleanup funds have been authorized and appropriated.

(2) The term “defense environmental cleanup funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out defense environmental cleanup activities necessary for national security programs.

(Pub. L. 107-314, div. D, title XLVII, §4710, formerly div. C, title XXXVI, §3629, Dec. 2, 2002, 116 Stat. 2760; renumbered div. D, title XLVII, §4710, and amended Pub. L. 108-136, div. C, title XXXI, §3141(j)(2)(A)–(C), (D)(iv), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 113-66, div. C, title XXXI, §3146(h)(2), Dec. 26, 2013, 127 Stat. 1081; Pub. L. 113-291, div. C, title XXXI, §3142(q), Dec. 19, 2014, 128 Stat. 3901.)

CODIFICATION

Section was formerly classified to section 7386i of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (b)(3)(B). Pub. L. 113-291 substituted “cleanup” for “management”.

2013—Pub. L. 113-66, §3146(h)(2)(A), substituted “cleanup” for “management” in section catchline.

Subsec. (a). Pub. L. 113-66, §3146(h)(2)(B), substituted “cleanup” for “management” in heading and text.

Subsec. (e)(1). Pub. L. 113-66, §3146(h)(2)(C)(i), substituted “defense environmental cleanup activities” for “environmental restoration or waste management activities” and “defense environmental cleanup funds” for “defense environmental management funds”.

Subsec. (e)(2). Pub. L. 113-66, §3146(h)(2)(C)(ii), substituted “defense environmental cleanup funds” for “defense environmental management funds” and “defense environmental cleanup activities” for “environmental restoration and waste management activities”.

2003—Subsec. (c). Pub. L. 108-136, §3141(j)(2)(D)(iv), made technical amendment to reference in original act which appears in text as reference to section 2742 of this title.

§ 2751. Transfer of weapons activities funds

(a) Transfer authority for weapons activities funds

The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.

(b) Limitations

(1) Number of transfers

Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) Amounts transferred

The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed \$5,000,000.

(3) Determination required

A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer—

(A) is necessary to address a risk to health, safety, or the environment; or

(B) will result in cost savings and efficiencies.

(4) Limitation

A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.

(5) Impermissible uses

Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) Exemption from reprogramming requirements

The requirements of section 2742 of this title shall not apply to transfers of funds pursuant to subsection (a).

(d) Notification

The Secretary, acting through the Administrator, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) Definitions

In this section:

(1) The term “program or project” means, with respect to a field office of the Department of Energy, a program or project that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated.

(2) The term “weapons activities funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

(Pub. L. 107-314, div. D, title XLVII, §4711, formerly div. C, title XXXVI, §3630, Dec. 2, 2002, 116 Stat. 2761; renumbered div. D, title XLVII, §4711, and amended Pub. L. 108-136, div. C, title XXXI, §3141(j)(2)(A)–(C), (D)(v), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 113-66, div. C, title XXXI, §3146(h)(3), Dec. 26, 2013, 127 Stat. 1081.)

CODIFICATION

Section was formerly classified to section 7386j of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (d). Pub. L. 113-66 struck out “for Nuclear Security” after “Administrator”.

2003—Subsec. (c). Pub. L. 108-136, §3141(j)(2)(D)(v), made technical amendment to reference in original act which appears in text as reference to section 2742 of this title.

§ 2752. Funds available for all national security programs of the Department of Energy

Subject to the provisions of appropriation Acts and section 2742 of this title, amounts appropriated pursuant to a DOE national security authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

(Pub. L. 107-314, div. D, title XLVII, §4712, formerly div. C, title XXXVI, §3631, Dec. 2, 2002, 116 Stat. 2762; renumbered div. D, title XLVII, §4712, and amended Pub. L. 108-136, div. C, title XXXI, §3141(j)(2)(A)–(C), (D)(vi), Nov. 24, 2003, 117 Stat. 1781.)

CODIFICATION

Section was formerly classified to section 7386k of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2003—Pub. L. 108-136, §3141(j)(2)(D)(vi), made technical amendment to reference in original act which appears in text as reference to section 2742 of this title.

§ 2753. Notification of cost overruns for certain Department of Energy projects

(a) Establishment of cost and schedule baselines

(1) Stockpile life extension projects

(A) In general

The Administrator shall establish a cost and schedule baseline for each nuclear stockpile life extension project of the Administration. In addition to the requirement

under subparagraph (B), the cost and schedule baseline of a nuclear stockpile life extension project established under this subparagraph shall be the cost and schedule as described in the first Selected Acquisition Report submitted under section 2537(a) of this title for the project.

(B) Per unit cost

The cost baseline developed under subparagraph (A) shall include, with respect to each life extension project, an estimated cost for each warhead in the project.

(C) Notification to congressional defense committees

Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Administrator shall submit the cost and schedule baseline to the congressional defense committees.

(2) Defense-funded construction projects

(A) In general

The Secretary of Energy shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each construction project that is—

- (i) in excess of \$50,000,000; and
- (ii) carried out by the Department using funds authorized to be appropriated for a fiscal year pursuant to a DOE national security authorization.

(B) Notification to congressional defense committees

Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

(3) Defense environmental cleanup projects

(A) In general

The Secretary shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each defense environmental cleanup project that is—

- (i) in excess of \$50,000,000; and
- (ii) carried out by the Department pursuant to such protocols.

(B) Notification to congressional defense committees

Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

(b) Notification of costs exceeding baseline

The Administrator or the Secretary, as applicable, shall notify the congressional defense committees not later than 30 days after determining that—

- (1) the total cost for a project referred to in paragraph (1), (2), or (3) of subsection (a) will exceed an amount that is equal to 125 percent of the cost baseline established under subsection (a) for that project; and
- (2) in the case of a stockpile life extension project referred to in subsection (a)(1), the

cost for any warhead in the project will exceed an amount that is equal to 150 percent of the cost baseline established under subsection (a)(1)(B) for each warhead in that project.

(c) Notification of determination with respect to termination or continuation of projects

Not later than 90 days after submitting a notification under subsection (b) with respect to a project, the Administrator or the Secretary, as applicable, shall—

- (1) notify the congressional defense committees with respect to whether the project will be terminated or continued; and
- (2) if the project will be continued, certify to the congressional defense committees that—

(A) a revised cost and schedule baseline has been established for the project and, in the case of a stockpile life extension project referred to in subparagraph (A) or (B) of subsection (a)(1), a revised estimate of the cost for each warhead in the project has been made;

(B) the continuation of the project is necessary to the mission of the Department of Energy and there is no alternative to the project that would meet the requirements of that mission; and

(C) a management structure is in place adequate to manage and control the cost and schedule of the project.

(d) Applicability of requirements to revised cost and schedule baselines

A revised cost and schedule baseline established under subsection (c) shall—

- (1) be submitted to the congressional defense committees with the certification submitted under subsection (c)(2); and
- (2) be subject to the notification requirements of subsections (b) and (c) in the same manner and to the same extent as a cost and schedule baseline established under subsection (a).

(Pub. L. 107-314, div. D, title XLVII, § 4713, as added Pub. L. 111-383, div. C, title XXXI, § 3114(a), Jan. 7, 2011, 124 Stat. 4510; amended Pub. L. 112-239, div. C, title XXXI, § 3131(t), Jan. 2, 2013, 126 Stat. 2184; Pub. L. 113-66, div. C, title XXXI, § 3146(h)(4), Dec. 26, 2013, 127 Stat. 1081; Pub. L. 113-291, div. C, title XXXI, § 3115, Dec. 19, 2014, 128 Stat. 3888.)

AMENDMENTS

2014—Subsec. (a)(1)(A). Pub. L. 113-291, § 3115(1), inserted at end “In addition to the requirement under subparagraph (B), the cost and schedule baseline of a nuclear stockpile life extension project established under this subparagraph shall be the cost and schedule as described in the first Selected Acquisition Report submitted under section 2537(a) of this title for the project.”

Subsec. (b)(2). Pub. L. 113-291, § 3115(2), substituted “150” for “200”.

2013—Subsec. (a)(1)(A). Pub. L. 112-239 struck out “for Nuclear Security” after “Administrator” and struck out “National Nuclear Security” after “life extension project of the”.

Subsec. (a)(3). Pub. L. 113-66, § 3146(h)(4)(A), substituted “cleanup” for “management” in heading.

Subsec. (a)(3)(A). Pub. L. 113-66, § 3146(h)(4)(B), substituted “environmental cleanup” for “environmental management” in introductory provisions.

§ 2754. Life-cycle cost estimates of certain atomic energy defense capital assets

(a) In general

The Secretary of Energy shall ensure that an independent life-cycle cost estimate under Department of Energy Order 413.3 (relating to program management and project management for the acquisition of capital assets) of each capital asset described in subsection (b) is conducted before the asset achieves critical decision 2 in the acquisition process.

(b) Capital assets described

A capital asset described in this subsection is an atomic energy defense capital asset—

- (1) the total project cost of which exceeds \$100,000,000; and
- (2) the purpose of which is to perform a limited-life, single-purpose mission.

(c) Independent defined

For purposes of subsection (a), the term “independent”, with respect to a life-cycle cost estimate of a capital asset, means that the life-cycle cost estimate is prepared by an organization independent of the project sponsor, using the same detailed technical and procurement information as the sponsor, to determine if the life-cycle cost estimate of the sponsor is accurate and reasonable.

(Pub. L. 107–314, div. D, title XLVII, §4714, as added Pub. L. 113–291, div. C, title XXXI, §3113(a), Dec. 19, 2014, 128 Stat. 3887.)

PART B—PENALTIES

§ 2761. Restriction on use of funds to pay penalties under environmental laws

(a) Restriction

Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.

(b) Exception

Subsection (a) shall not apply with respect to an environmental requirement if—

- (1) the President fails to request funds for compliance with the environmental requirement; or
- (2) Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.

(Pub. L. 107–314, div. D, title XLVII, §4721, formerly Pub. L. 99–661, div. C, title I, §3132, Nov. 14, 1986, 100 Stat. 4063; renumbered Pub. L. 107–314, div. D, title XLVII, §4721, and amended Pub. L. 108–136, div. C, title XXXI, §3141(j)(4), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 113–66, div. C, title XXXI, §3146(h)(5), Dec. 26, 2013, 127 Stat. 1081.)

CODIFICATION

Section was formerly classified to section 7273a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Subsec. (b)(2). Pub. L. 113–66 substituted “Congress” for “the Congress”.

2003—Pub. L. 108–136, §3141(j)(4)(D), made technical amendment to section catchline.

§ 2762. Restriction on use of funds to pay penalties under Clean Air Act

None of the funds authorized to be appropriated by the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3197) or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if—

(1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance; or

(2) the President has specifically requested appropriations for compliance and Congress has failed to appropriate funds for such purpose.

(Pub. L. 107–314, div. D, title XLVII, §4722, formerly Pub. L. 96–540, title II, §211, Dec. 17, 1980, 94 Stat. 3203; renumbered Pub. L. 107–314, div. D, title XLVII, §4722, and amended Pub. L. 108–136, div. C, title XXXI, §3141(j)(5), Nov. 24, 2003, 117 Stat. 1781; Pub. L. 113–66, div. C, title XXXI, §3146(h)(6), Dec. 26, 2013, 127 Stat. 1081; Pub. L. 113–291, div. C, title XXXI, §3142(r), Dec. 19, 2014, 128 Stat. 3901.)

REFERENCES IN TEXT

The Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, referred to in text, is Pub. L. 96–540, Dec. 17, 1980, 94 Stat. 3197, which insofar as classified to the Code, enacted this section and section 2513 of this title.

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 7273 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriations act:

Pub. L. 96–164, title II, §211, Dec. 29, 1979, 93 Stat. 1264.

AMENDMENTS

2014—Pub. L. 113–291 substituted “Department of Energy if—” for “Department of Energy if” before par. (1) designation and “; or” for “,” at end of par. (1) and realigned margins of pars. (1) and (2).

2013—Pub. L. 113–66 inserted “; 94 Stat. 3197” after “Public Law 96–540” and substituted “Congress” for “the Congress”.

2003—Pub. L. 108–136, §3141(j)(5)(C), made technical amendment to section catchline and substituted “the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act” for “this or any other Act” in text.

PART C—OTHER MATTERS

§ 2771. Repealed. Pub. L. 112-239, div. C, title XXXI, § 3131(u)(1), Jan. 2, 2013, 126 Stat. 2184

Section, Pub. L. 107-314, div. D, title XLVII, § 4731, formerly Pub. L. 95-509, title II, § 208, Oct. 24, 1978, 92 Stat. 1779; renumbered Pub. L. 107-314, div. D, title XLVII, § 4731, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(j)(7), Nov. 24, 2003, 117 Stat. 1782, provided that the Secretary was to submit to the Congress for fiscal year 1980, and for each subsequent fiscal year, a single request for authorization of appropriations for common defense and security programs.

§ 2772. Quarterly reports on financial balances for atomic energy defense activities**(a) Reports required**

Not later than 15 days after the end of each fiscal year quarter, the Secretary of Energy shall submit to the congressional defense committees a report on the financial balances for each atomic energy defense program at the budget control levels used in the report accompanying the most current Act appropriating funds for energy and water development.

(b) Elements

Each report under subsection (a) shall set forth, for each program covered by such report, the following as of the end of the fiscal year quarter covered by such report:

- (1) The total amount authorized to be appropriated, including amounts authorized to be appropriated in the current fiscal year and amounts authorized to be appropriated for prior fiscal years.
- (2) The amount unobligated.
- (3) The amount unobligated but committed.
- (4) The amount obligated but uncosted.

(c) Presentation

Each report under subsection (a) shall present information as follows:

- (1) For each program, in summary form and by fiscal year.
- (2) With financial balances in connection with funding under recurring DOE national security authorizations (as that term is defined in section 2741(1)) of this title presented separately from balances in connection with funding under any other provisions of law.

(Pub. L. 107-314, div. D, title XLVII, § 4732, as added Pub. L. 112-239, div. C, title XXXI, § 3143(a), Jan. 2, 2013, 126 Stat. 2196.)

SUBCHAPTER VIII—ADMINISTRATIVE MATTERS

PART A—CONTRACTS

§ 2781. Costs not allowed under covered contracts**(a) In general**

The following costs are not allowable under a covered contract:

- (1) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

(2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

(3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of false certification).

(4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Energy.

(5) Costs of membership in any social, dining, or country club or organization.

(6) Costs of alcoholic beverages.

(7) Contributions or donations, regardless of the recipient.

(8) Costs of advertising designed to promote the contractor or its products.

(9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

(10) Costs for travel by commercial aircraft or by travel by other than common carrier that is not necessary for the performance of the contract and the cost of which exceeds the amount of the standard commercial fare.

(b) Regulations; costs of information provided to Congress or State legislatures and related costs

(1) Not later than 150 days after November 8, 1985, the Secretary of Energy shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications. Such regulations shall be published in accordance with section 1707 of title 41.

(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

(c) “Covered contract” defined

In this section, “covered contract” means a contract for an amount more than \$100,000 entered into by the Secretary of Energy obligating funds appropriated for national security programs of the Department of Energy.

(d) Effective date

Subsection (a) shall apply with respect to costs incurred under a covered contract on or after 30 days after the regulations required by subsection (b) are issued.

(Pub. L. 107-314, div. D, title XLVIII, § 4801, formerly Pub. L. 99-145, title XV, § 1534, Nov. 8, 1985,

99 Stat. 774; Pub. L. 100-180, div. C, title I, §3131(a), Dec. 4, 1987, 101 Stat. 1238; renumbered Pub. L. 107-314, div. D, title XLVIII, §4801, and amended Pub. L. 108-136, div. C, title XXXI, §3141(k)(2), Nov. 24, 2003, 117 Stat. 1783; Pub. L. 113-66, div. C, title XXXI, §3146(i)(1), Dec. 26, 2013, 127 Stat. 1081.)

CODIFICATION

Section was formerly classified to section 7256a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (b)(1). Pub. L. 113-66 substituted “section 1707 of title 41” for “section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b)”.

2003—Pub. L. 108-136, §3141(k)(2)(D)(i), made technical amendment to section catchline.

Subsec. (b)(1). Pub. L. 108-136, §3141(k)(2)(D)(ii), substituted “November 8, 1985,” for “the date of the enactment of this Act,” in the original, which for purposes of codification had been changed to “November 8, 1985,” thus requiring no change in text.

1987—Subsec. (b). Pub. L. 100-180 designated existing provisions as par. (1) and added par. (2).

REGULATIONS

Pub. L. 100-180, div. C, title I, §3131(b), Dec. 4, 1987, 101 Stat. 1239, provided that: “Regulations to implement paragraph (2) of section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (as added by subsection (a)) [50 U.S.C. 2781(b)(2)] shall be prescribed not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987]. Such regulations shall apply as if included in the original regulations prescribed under such section.”

§ 2782. Prohibition and report on bonuses to contractors operating defense nuclear facilities

(a) Prohibition

The Secretary of Energy may not provide any bonuses, award fees, or other form of performance- or production-based awards to a contractor operating a Department of Energy defense nuclear facility unless, in evaluating the performance or production under the contract, the Secretary considers the contractor's compliance with all applicable environmental, safety, and health statutes, regulations, and practices for determining both the size of, and the contractor's qualification for, such bonus, award fee, or other award. The prohibition in this subsection applies with respect to contracts entered into, or contract options exercised, after November 29, 1989.

(b) Regulations

The Secretary of Energy shall promulgate regulations to implement subsection (a) not later than March 1, 1990.

(Pub. L. 107-314, div. D, title XLVIII, §4802, formerly Pub. L. 101-189, div. C, title XXXI, §3151, Nov. 29, 1989, 103 Stat. 1682; renumbered Pub. L. 107-314, div. D, title XLVIII, §4802, and amended Pub. L. 108-136, div. C, title XXXI, §3141(k)(3), Nov. 24, 2003, 117 Stat. 1783; Pub. L. 112-239, div. C, title XXXI, §3131(v), Jan. 2, 2013, 126 Stat. 2184; Pub. L. 113-66, div. C, title XXXI, §3146(a)(2)(J), Dec. 26, 2013, 127 Stat. 1073.)

CODIFICATION

Section was formerly classified to section 7256b of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsecs. (b), (c). Pub. L. 113-66 redesignated subsec. (c) as (b) and struck out former subsec. (b) which defined “Department of Energy defense nuclear facility”.

Pub. L. 112-239 redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to a report on Rocky Flats bonuses.

Subsec. (d). Pub. L. 112-239, §3131(v)(3), redesignated subsec. (d) as (c).

2003—Pub. L. 108-136, §3141(k)(3)(D)(i), made technical amendment to section catchline.

Subsec. (a). Pub. L. 108-136, §3141(k)(3)(D)(ii), substituted “November 29, 1989” for “the date of the enactment of this Act” in the original, which for purposes of codification had been changed to “November 29, 1989” thus requiring no change in text.

Subsec. (b). Pub. L. 108-136, §3141(k)(3)(D)(iii), substituted “May 29, 1990,” for “6 months after November 29, 1989,”.

Subsec. (d). Pub. L. 108-136, §3141(k)(3)(D)(iv), substituted “March 1, 1990” for “90 days after November 29, 1989”.

§ 2783. Contractor liability for injury or loss of property arising out of atomic weapons testing programs

(a) Short title

This section may be cited as the “Atomic Testing Liability Act”.

(b) Federal remedies applicable; exclusiveness of remedies

(1) Remedy

The remedy against the United States provided by sections 1346(b) and 2672 of title 28, or by chapter 309 or 311 of title 46, as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor in carrying out an atomic weapons testing program under a contract with the United States.

(2) Exclusivity

The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining civil liability arising from any act or omission of the contractor without regard to when the act or omission occurred. The employees of a contractor referred to in paragraph (1) shall be considered to be employees of the Federal Government, as provided in section 2671 of title 28, for the purposes of any such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

(c) Procedure

A contractor against whom a civil action or proceeding described in subsection (b) is brought shall promptly deliver all processes served upon that contractor to the Attorney General of the United States. Upon certification by the Attorney General that the suit against the contractor is within the provisions of subsection (b), a civil action or proceeding commenced in a State court shall be removed without bond at any

time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of title 28. For purposes of removal, the certification by the Attorney General under this subsection establishes contractor status conclusively.

(d) Actions covered

The provisions of this section shall apply to any action, within the provisions of subsection (b), which is pending on November 5, 1990, or commenced on or after such date. Notwithstanding section 2401(b) of title 28, if a civil action or proceeding to which this section applies is pending on November 5, 1990, and is dismissed because the plaintiff in such action or proceeding did not file an administrative claim as required by section 2672 of that title, the plaintiff in that action or proceeding shall have 30 days from the date of the dismissal or two years from the date upon which the claim accrued, whichever is later, to file an administrative claim, and any claim or subsequent civil action or proceeding shall thereafter be subject to the provisions of section 2401(b) of title 28.

(e) “Contractor” defined

For purposes of this section, the term “contractor” includes a contractor or cost reimbursement subcontractor of any tier participating in the conduct of the United States atomic weapons testing program for the Department of Energy (or its predecessor agencies, including the Manhattan Engineer District, the Atomic Energy Commission, and the Energy Research and Development Administration). Such term also includes facilities which conduct or have conducted research concerning health effects of ionizing radiation in connection with the testing under contract with the Department of Energy (or any of its predecessor agencies).

(Pub. L. 107-314, div. D, title XLVIII, § 4803, formerly Pub. L. 101-510, div. C, title XXXI, § 3141, Nov. 5, 1990, 104 Stat. 1837; renumbered Pub. L. 107-314, div. D, title XLVIII, § 4803, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(k)(4), Nov. 24, 2003, 117 Stat. 1783; Pub. L. 113-66, div. C, title XXXI, § 3146(i)(2), Dec. 26, 2013, 127 Stat. 1081.)

CODIFICATION

Section was formerly classified to section 2212 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (b)(1). Pub. L. 113-66 substituted “or by chapter 309 or 311 of title 46” for “by the Act of March 9, 1920 (46 U.S.C. App. 741-752), or by the Act of March 3, 1925 (46 U.S.C. App. 781-790)”.

2003—Pub. L. 108-136, § 3141(k)(4)(D)(i), made technical amendment to section catchline.

Subsec. (d). Pub. L. 108-136, § 3141(k)(4)(D)(ii), substituted “November 5, 1990,” for “the date of the enactment of this Act” in two places in the original, which for purposes of codification had been changed to “November 5, 1990,” thus requiring no change in text.

§ 2784. Notice-and-wait requirement applicable to certain third-party financing arrangements

(a) Notice-and-wait requirement

The Secretary of Energy may not enter into an arrangement described in subsection (b) until 30 days after the date on which the Secretary notifies the congressional defense committees in writing of the proposed arrangement.

(b) Covered arrangements

(1) In general

Except as provided in paragraph (2), an arrangement referred to in subsection (a) is any alternative financing arrangement, third-party financing arrangement, public-private partnership, privatization arrangement, private capital arrangement, or other financing arrangement that—

(A) is entered into in connection with a project conducted using funds authorized to be appropriated to the Department of Energy to carry out programs necessary for national security; and

(B) involves a contractor or Federal agency obtaining and charging to the Department of Energy as an allowable cost under a contract the use of office space, facilities, or other real property assets with a value of at least \$5,000,000.

(2) Exception

An arrangement referred to in subsection (a) does not include an arrangement that—

(A) involves the Department of Energy or a contractor acquiring or entering into a capital lease for office space, facilities, or other real property assets; or

(B) is entered into in connection with a capital improvement project undertaken as part of an energy savings performance contract under section 8287 of title 42.

(Pub. L. 107-314, div. D, title XLVIII, § 4804, as added Pub. L. 109-364, div. C, title XXXI, § 3118, Oct. 17, 2006, 120 Stat. 2509.)

§ 2785. Publication of contractor performance evaluations leading to award fees

(a) In general

The Administrator shall take appropriate actions to make available to the public, to the maximum extent practicable, contractor performance evaluations conducted by the Administration of management and operating contractors of the nuclear security enterprise that results in the award of an award fee to the contractor concerned.

(b) Format

Performance evaluations shall be made public under this section in a common format that facilitates comparisons of performance evaluations between and among similar management and operating contracts.

(Pub. L. 107-314, div. D, title XLVIII, § 4805, as added Pub. L. 112-239, div. C, title XXXI, § 3117(a)(1), Jan. 2, 2013, 126 Stat. 2173.)

EFFECTIVE DATE

Pub. L. 112-239, div. C, title XXXI, § 3117(b), Jan. 2, 2013, 126 Stat. 2173, provided that: “The amendments

made by subsection (a) [enacting this section] shall take effect on the date of the enactment of this Act [Jan. 2, 2013], and shall apply with respect to contractor performance evaluations conducted by the National Nuclear Security Administration on or after that date.”

§ 2786. Enhanced procurement authority to manage supply chain risk

(a) Authority

Subject to subsection (b), the Secretary of Energy may—

- (1) carry out a covered procurement action; and
- (2) notwithstanding any other provision of law, limit, in whole or in part, the disclosure of information relating to the basis for carrying out a covered procurement action.

(b) Requirements

The Secretary may exercise the authority under subsection (a) only after—

- (1) obtaining a risk assessment that demonstrates that there is a significant supply chain risk to a covered system;
- (2) making a determination in writing, in unclassified or classified form, that—
 - (A) the use of the authority under subsection (a) is necessary to protect national security by reducing supply chain risk;
 - (B) less restrictive measures are not reasonably available to reduce the supply chain risk; and
 - (C) in a case in which the Secretary plans to limit disclosure of information under subsection (a)(2), the risk to national security of the disclosure of the information outweighs the risk of not disclosing the information; and
- (3) submitting to the appropriate congressional committees, not later than seven days after the date on which the Secretary makes the determination under paragraph (2), a notice of such determination, in classified or unclassified form, that includes—
 - (A) the information required by section 3304(e)(2)(A) of title 41;
 - (B) a summary of the risk assessment required under paragraph (1); and
 - (C) a summary of the basis for the determination, including a discussion of less restrictive measures that were considered and why such measures were not reasonably available to reduce supply chain risk.

(c) Notifications

If the Secretary has exercised the authority under subsection (a), the Secretary shall—

- (1) notify appropriate parties of the covered procurement action and the basis for the action only to the extent necessary to carry out the covered procurement action;
- (2) notify other Federal agencies responsible for procurement that may be subject to the same or similar supply chain risk, in a manner and to the extent consistent with the requirements of national security; and
- (3) ensure the confidentiality of any notifications under paragraph (1) or (2).

(d) Limitation of review

No action taken by the Secretary under the authority under subsection (a) shall be subject to review in any Federal court.

(e) Review by Comptroller General of the United States

Not later than one year after the effective date specified in subsection (g)(1), and annually for four years thereafter, the Comptroller General of the United States shall—

- (1) review the authority provided under subsection (a), including—

- (A) the adequacy of resources, such as trained personnel, to effectively exercise that authority during the four-year period beginning on that effective date; and
- (B) the sufficiency of determinations under subsection (b)(2);

- (2) review the thoroughness of the process and systems utilized by the Office of the Chief Information Officer and the Office of Intelligence and Counterintelligence of the Department of Energy to reasonably detect supply chain threats to the national security functions of the Department; and
- (3) submit to the appropriate congressional committees a report that includes—

- (A) the results of the reviews conducted under paragraphs (1) and (2);
- (B) any recommendations of the Comptroller General for improving the process and systems described in paragraph (2); and
- (C) a description of the status of the implementation of recommendations, if any, with respect to that process and such systems made by the Comptroller General in previous years.

(f) Definitions

In this section:

(1) Appropriate congressional committees

The term “appropriate congressional committees” means—

- (A) the congressional defense committees; and
- (B) the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(2) Covered item of supply

The term “covered item of supply” means an item—

- (A) that is purchased for inclusion in a covered system; and
- (B) the loss of integrity of which could result in a supply chain risk for a covered system.

(3) Covered procurement

The term “covered procurement” means the following:

- (A) A source selection for a covered system or a covered item of supply involving either a performance specification, as described in subsection (a)(3)(B) of section 3306 of title 41, or an evaluation factor, as described in subsection (b)(1) of such section, relating to supply chain risk.

- (B) The consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply, as provided in section 4106(d)(3) of title 41, where the task or delivery order contract concerned includes a contract clause estab-

lishing a requirement relating to supply chain risk.

(C) Any contract action involving a contract for a covered system or a covered item of supply if the contract includes a clause establishing requirements relating to supply chain risk.

(4) Covered procurement action

The term “covered procurement action” means, with respect to an action that occurs in the course of conducting a covered procurement, any of the following:

(A) The exclusion of a source that fails to meet qualification requirements established pursuant to section 3311 of title 41 for the purpose of reducing supply chain risk in the acquisition of covered systems.

(B) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.

(C) The withholding of consent for a contractor to subcontract with a particular source or the direction to a contractor for a covered system to exclude a particular source from consideration for a subcontract under the contract.

(5) Covered system

The term “covered system” means the following:

(A) National security systems (as defined in section 3542(b)¹ of title 44) and components of such systems.

(B) Nuclear weapons and components of nuclear weapons.

(C) Items associated with the design, development, production, and maintenance of nuclear weapons or components of nuclear weapons.

(D) Items associated with the surveillance of the nuclear weapon stockpile.

(E) Items associated with the design and development of nonproliferation and counterproliferation programs and systems.

(6) Supply chain risk

The term “supply chain risk” means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system or covered item of supply so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of the system or item of supply.

(g) Effective date

(1) In general

This section shall take effect on June 24, 2014.

(2) Applicability

The authority under subsection (a) shall apply to—

(A) contracts awarded on or after the effective date specified in paragraph (1); and

(B) task and delivery orders issued on or after that effective date pursuant to contracts awarded before, on, or after that effective date.

(3) Termination

The authority under this section shall terminate on the date that is four years after the effective date specified in paragraph (1).

(Pub. L. 107-314, div. D, title XLVIII, § 4806, as added Pub. L. 113-66, div. C, title XXXI, § 3113(a), Dec. 26, 2013, 127 Stat. 1053; amended Pub. L. 113-291, div. C, title XXXI, § 3142(s), Dec. 19, 2014, 128 Stat. 3901.)

REFERENCES IN TEXT

Section 3542(b) of title 44, referred to in subsec. (f)(5)(A), was repealed by Pub. L. 113-283, § 2(a), Dec. 18, 2014, 128 Stat. 3073. Provisions defining “national security system” are now contained in section 3552 of title 44, as enacted by Pub. L. 113-283.

AMENDMENTS

2014—Subsec. (g)(1). Pub. L. 113-291 substituted “June 24, 2014” for “the date that is 180 days after December 26, 2013”.

PART B—RESEARCH AND DEVELOPMENT

§ 2791. Laboratory-directed research and development programs

(a) Authority

Government-owned, contractor-operated laboratories that are funded out of funds available to the Department of Energy for national security programs are authorized to carry out laboratory-directed research and development.

(b) Regulations

The Secretary of Energy shall prescribe regulations for the conduct of laboratory-directed research and development at such laboratories.

(c) Funding

Of the funds provided by the Department of Energy to such laboratories for national security activities, the Secretary shall provide a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory-directed research and development.

(d) “Laboratory-directed research and development” defined

For purposes of this section, the term “laboratory-directed research and development” means research and development work of a creative and innovative nature which, under the regulations prescribed pursuant to subsection (b), is selected by the director of a laboratory for the purpose of maintaining the vitality of the laboratory in defense-related scientific disciplines.

(Pub. L. 107-314, div. D, title XLVIII, § 4811, formerly Pub. L. 101-510, div. C, title XXXI, § 3132, Nov. 5, 1990, 104 Stat. 1832; renumbered Pub. L. 107-314, div. D, title XLVIII, § 4811, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(k)(6), Nov. 24, 2003, 117 Stat. 1784.)

CODIFICATION

Section was formerly classified to section 7257a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

¹ See References in Text note below.

AMENDMENTS

2003—Pub. L. 108–136, §3141(k)(6)(D), made technical amendment to section catchline.

§ 2791a. Laboratory-directed research and development

Of the funds made available by the Department of Energy for activities at government-owned, contractor-operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory directed research and development: *Provided*, That the Secretary may also authorize a specific amount not to exceed 4 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site directed research and development: *Provided further*, That notwithstanding Department of Energy order 413.2A, dated January 8, 2001, beginning in fiscal year 2006 and thereafter, all DOE laboratories may be eligible for laboratory directed research and development funding.

(Pub. L. 111–8, div. C, title III, §308, Mar. 11, 2009, 123 Stat. 626.)

REFERENCES IN TEXT

This Act, referred to in text, is div. C of Pub. L. 111–8, Mar. 11, 2009, 123 Stat. 601, known as the Energy and Water Development and Related Agencies Appropriations Act, 2009. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the Atomic Energy Defense Act which comprises this chapter.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 111–85, title III, §307, Oct. 28, 2009, 123 Stat. 2872.

Pub. L. 110–161, div. C, title III, §309, Dec. 26, 2007, 121 Stat. 1968.

Pub. L. 109–103, title III, §311, Nov. 19, 2005, 119 Stat. 2280.

FUNDING FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT

Pub. L. 113–76, div. D, title III, §309, Jan. 17, 2014, 128 Stat. 175, provided that: “Notwithstanding section 307 of Public Law 111–85 [listed in a table above], of the funds made available by the Department of Energy for activities at Government-owned, contractor-operated laboratories funded in this [Act] [div. D of Pub. L. 113–76, see Tables for classification] or any subsequent Energy and Water Development Appropriations Act for any fiscal year, the Secretary may authorize a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory directed research and development.”

§ 2791b. Charges to individual program, project, or activity

Of the funds authorized by the Secretary of Energy for laboratory directed research and development, no individual program, project, or activity funded by this or any subsequent Act

making appropriations for Energy and Water Development for any fiscal year may be charged more than the statutory maximum authorized for such activities: *Provided*, That this section shall take effect not earlier than October 1, 2015.

(Pub. L. 113–235, div. D, title III, §311, Dec. 16, 2014, 128 Stat. 2326.)

REFERENCES IN TEXT

This Act, referred to in text, is div. D of Pub. L. 113–235, Dec. 16, 2014, 128 Stat. 2303, known as the Energy and Water Development and Related Agencies Appropriations Act, 2015. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Atomic Energy Defense Act which comprises this chapter.

§ 2792. Limitations on use of funds for laboratory directed research and development purposes

(a) Limitation on use of weapons activities funds

No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for weapons activities may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the national security mission of the Department of Energy.

(b) Limitation on use of certain other funds

No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for defense environmental cleanup may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the defense environmental cleanup mission of the Department of Energy.

(Pub. L. 107–314, div. D, title XLVIII, §4812, formerly Pub. L. 105–85, div. C, title XXXI, §3137, Nov. 18, 1997, 111 Stat. 2038; renumbered Pub. L. 107–314, div. D, title XLVIII, §4812, and amended Pub. L. 108–136, div. C, title XXXI, §3141(k)(7)(A), Nov. 24, 2003, 117 Stat. 1784; Pub. L. 112–239, div. C, title XXXI, §3131(w), Jan. 2, 2013, 126 Stat. 2184; Pub. L. 113–66, div. C, title XXXI, §3146(i)(3), Dec. 26, 2013, 127 Stat. 1082.)

CODIFICATION

Section is comprised of section 4812 of Pub. L. 107–314. Subsec. (c) of section 4812 of Pub. L. 107–314 amended section 2793 of this title and was subsequently struck out by Pub. L. 112–239, div. C, title XXXI, §3131(w)(1), Jan. 2, 2013, 126 Stat. 2184. See 2013 Amendment note below.

Section was formerly classified to section 7257c of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-66, §3146(i)(3)(B), (C), substituted “Limitation on use of weapons activities funds” for “General limitations” in heading, struck out par. (1) designation, and redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 113-66, §3146(i)(3)(A), (C), (D), redesignated par. (2) of subsec. (a) as subsec. (b), inserted heading, substituted “defense environmental cleanup” for “environmental restoration, waste management, or nuclear materials and facilities stabilization” and “defense environmental cleanup mission” for “environmental restoration mission, waste management mission, or materials stabilization mission, as the case may be,” and struck out former subsec. (b) which defined “Laboratory directed research and development”.

Pub. L. 112-239, §3131(w), redesignated subsec. (e) as (b) and struck out former subsec. (b) which related to a funding limitation in fiscal year 1998 pending submission of annual report.

Subsecs. (c) to (e). Pub. L. 112-239, §3131(w), redesignated subsec. (e) as (b) and struck out subsecs. (c) and (d). Prior to amendment, subsec. (c) was omitted and subsec. (d) related to an assessment of funding level for laboratory directed research and development.

2003—Subsec. (b). Pub. L. 108-136, §3141(k)(7)(A)(iv), made technical amendment to reference in original act which appears in text as reference to section 2793(b) of this title.

Subsec. (d). Pub. L. 108-136, §3141(k)(7)(A)(v)(II), made technical amendment to reference in original act which appears in text as reference to section 2791(c) of this title.

Pub. L. 108-136, §3141(k)(7)(A)(v)(I), made technical amendment to reference in original act which appears in text as reference to section 2793(b)(1) of this title.

Subsec. (e). Pub. L. 108-136, §3141(k)(7)(A)(vi), made technical amendment to reference in original act which appears in text as reference to section 2791(d) of this title.

§ 2793. Report on use of funds for certain research and development purposes

(a) Report required

Not later than February 1 each year, the Secretary of Energy shall submit to the congressional defense committees a report on the funds expended during the preceding fiscal year on activities under the Department of Energy Laboratory Directed Research and Development Program. The purpose of the report is to permit an assessment of the extent to which such activities support the national security mission of the Department of Energy.

(b) Preparation of report

Each report shall be prepared by the officials responsible for Federal oversight of the funds expended on activities under the program.

(c) Criteria used in preparation of report

Each report shall set forth the criteria utilized by the officials preparing the report in determining whether or not the activities reviewed by such officials support the national security mission of the Department.

(Pub. L. 107-314, div. D, title XLVIII, §4812A, formerly Pub. L. 104-201, div. C, title XXXI, §3136, Sept. 23, 1996, 110 Stat. 2830; Pub. L. 107-314, div. D, title XLVIII, §4812(c), formerly Pub. L. 105-85, div. C, title XXXI, §3137(c), Nov. 18, 1997, 111 Stat. 2039, renumbered Pub. L. 107-314, div. D, title XLVIII, §4812(c), by Pub. L. 108-136, div. C, title XXXI, §3141(k)(7)(A)(i)–(iii), Nov. 24, 2003, 117 Stat. 1784; renumbered Pub. L. 107-314, div. D,

title XLVIII, §4812A, and amended Pub. L. 108-136, div. C, title XXXI, §3141(k)(7)(B), Nov. 24, 2003, 117 Stat. 1784; Pub. L. 113-66, div. C, title XXXI, §3146(i)(4)(A), Dec. 26, 2013, 127 Stat. 1082.)

CODIFICATION

Section was formerly classified to section 7257b of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Pub. L. 113-66 substituted “Report” for “Limitation” in section catchline, struck out subsec. (b) heading “Annual report”, redesignated pars. (1) to (3) of subsec. (b) as subsecs. (a) to (c), respectively, inserted subsec. headings, and struck out former subsec. (a), which related to limitation on use of certain funds.

2003—Subsec. (a). Pub. L. 108-136, §3141(k)(7)(B)(iv), inserted “of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201)” after “section 3101”.

1997—Subsec. (b)(1). Pub. L. 107-314, §4812(c), formerly Pub. L. 105-85, §3137(c), substituted “Not later than February 1 each year, the Secretary of Energy shall submit” for “The Secretary of Energy shall annually submit”.

§ 2794. Critical technology partnerships and cooperative research and development centers

(a) Partnerships

For the purpose of facilitating the transfer of technology, the Secretary of Energy shall ensure, to the maximum extent practicable, that research on and development of dual-use critical technology carried out through atomic energy defense activities is conducted through cooperative research and development agreements, or other arrangements, that involve laboratories of the Department of Energy and other entities.

(b) Cooperative research and development centers

(1) Subject to the availability of appropriations provided for such purpose, the Administrator shall establish a cooperative research and development center described in paragraph (2) at each national security laboratory.

(2) A cooperative research and development center described in this paragraph is a center to foster collaborative scientific research, technology development, and the appropriate transfer of research and technology to users in addition to the national security laboratories.

(3) In establishing a cooperative research and development center under this subsection, the Administrator—

(A) shall enter into cooperative research and development agreements with governmental, public, academic, or private entities; and

(B) may enter into a contract with respect to constructing, purchasing, managing, or leasing buildings or other facilities.

(c) Definitions

In this section:

(1) The term “dual-use critical technology” means a technology—

(A) that is critical to atomic energy defense activities, as determined by the Secretary of Energy;

(B) that has military applications and non-military applications; and

(C) that is a defense critical technology (as defined in section 2500 of title 10).

(2) The term “cooperative research and development agreement” has the meaning given that term by section 3710a(d) of title 15.

(3) The term “other entities” means—

(A) firms, or a consortium of firms, that are eligible to participate in a partnership or other arrangement with a laboratory of the Department of Energy, as determined in accordance with applicable law and regulations; or

(B) firms, or a consortium of firms, described in subparagraph (A) in combination with one or more of the following:

(i) Institutions of higher education in the United States.

(ii) Departments and agencies of the Federal Government other than the Department of Energy.

(iii) Agencies of State governments.

(iv) Any other persons or entities that may be eligible and appropriate, as determined in accordance with applicable laws and regulations.

(4) The term “atomic energy defense activities” does not include activities covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program.

(Pub. L. 107–314, div. D, title XLVIII, §4813, formerly Pub. L. 102–190, div. C, title XXXI, §3136, Dec. 5, 1991, 105 Stat. 1577; Pub. L. 103–35, title II, §203(b)(3), May 31, 1993, 107 Stat. 102; renumbered Pub. L. 107–314, div. D, title XLVIII, §4813, by Pub. L. 108–136, div. C, title XXXI, §3141(k)(8), Nov. 24, 2003, 117 Stat. 1785; Pub. L. 111–383, div. C, title XXXI, §3115(a), Jan. 7, 2011, 124 Stat. 4511; Pub. L. 112–239, div. C, title XXXI, §3131(x), Jan. 2, 2013, 126 Stat. 2184; Pub. L. 113–66, div. C, title XXXI, §3146(i)(5), Dec. 26, 2013, 127 Stat. 1082; Pub. L. 113–291, div. C, title XXXI, §3142(t), Dec. 19, 2014, 128 Stat. 3901.)

REFERENCES IN TEXT

Executive Order No. 12344, dated February 1, 1982, referred to in subsec. (c)(4), is set out as a note under section 2511 of this title.

CODIFICATION

Section was formerly classified to section 2123 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–291 substituted “that research on and development of dual-use critical technology carried out through atomic energy defense activities” for “that atomic energy defense activities research on, and development of, any dual-use critical technology”.

2013—Subsec. (b)(1). Pub. L. 113–66, §3146(i)(5)(A), struck out “for Nuclear Security” after “Administrator”.

Subsec. (c)(1)(C). Pub. L. 113–66, §3146(i)(5)(B)(i), added subpar. (C) and struck out former subpar. (C). Prior to amendment, text read as follows: “that either—

“(i)(I) appears on the list of national critical technologies contained in a biennial report on national critical technologies submitted to Congress by the President pursuant to section 6683(d) of title 42; and
“(II) has not been expressly deleted from such list by such a report subsequently submitted to Congress by the President; or

“(ii)(I) appears on the list of critical technologies contained in an annual defense critical technologies

plan submitted to Congress by the Secretary of Defense pursuant to section 2506 of title 10; and

“(II) has not been expressly deleted from such list by such a plan subsequently submitted to Congress by the Secretary.”

Subsec. (c)(3)(B)(iii). Pub. L. 113–66, §3146(i)(5)(B)(ii), substituted “governments” for “Governments”.

Subsec. (c)(5). Pub. L. 112–239 struck out par. (5) which read as follows: “The term ‘national security laboratory’ has the meaning given that term in section 2471 of this title.”

2011—Pub. L. 111–383, §3115(a)(3), inserted “and cooperative research and development centers” after “partnerships” in section catchline.

Subsecs. (b), (c). Pub. L. 111–383, §3115(a)(1), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c)(5). Pub. L. 111–383, §3115(a)(2), added par. (5).

1993—Subsec. (b)(1)(C)(ii)(I). Pub. L. 103–35 substituted “section 2506 of title 10” for “section 2522 of title 10”.

PILOT PROGRAM ON TECHNOLOGY COMMERCIALIZATION

Pub. L. 112–239, div. C, title XXXI, §3165, Jan. 2, 2013, 126 Stat. 2207, provided that:

“(a) PILOT PROGRAM.—The Secretary of Energy, in consultation with the Technology Transfer Coordinator appointed under section 1001(a) of the Energy Policy Act of 2005 (42 U.S.C. 16391(a)), may carry out a pilot program at a national security laboratory for the purpose of accelerating technology transfer from such laboratories to the marketplace with respect to technologies that directly advance the mission of the National Nuclear Security Administration.

“(b) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate on the date that is two years after the date of the enactment of this Act [Jan. 2, 2013].

“(c) REPORTS.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the pilot program under subsection (a).

“(2) ELEMENTS.—The report under paragraph (1) shall include the following:

“(A) An identification of opportunities for accelerating technology transfer from national security laboratories to the marketplace.

“(B) If the Secretary chooses to carry out the pilot program under subsection (a), a description of the plan to carry out such program.

“(C) If the Secretary chooses not to carry out the pilot program under subsection (a), a description of why the program will not be carried out.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘appropriate congressional committees’ means the following:

“(A) The Committees on Armed Services of the Senate and House of Representatives.

“(B) The Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

“(C) The Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

“(2) The term ‘national security laboratory’ has the meaning given that term in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).”

§ 2795. University-based research collaboration program

(a) Findings

Congress makes the following findings:

(1) The maintenance of scientific and engineering competence in the United States is vital to long-term national security and the defense and national security missions of the Department of Energy.

(2) Engaging the universities and colleges of the Nation in research on long-range problems of vital national security interest will be critical to solving the technology challenges faced within the defense and national security programs of the Department of Energy in the next century.

(3) Enhancing collaboration among the national laboratories, universities and colleges, and industry will contribute significantly to the performance of these Department of Energy missions.

(b) Program

The Secretary of Energy shall establish a university program at a location that can develop the most effective collaboration among national laboratories, universities and colleges, and industry in support of scientific and engineering advancement in key Department of Energy defense and national security program areas.

(Pub. L. 107-314, div. D, title XLVIII, § 4814, formerly Pub. L. 105-85, div. C, title XXXI, § 3155, Nov. 18, 1997, 111 Stat. 2044; renumbered Pub. L. 107-314, div. D, title XLVIII, § 4814, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(k)(9), Nov. 24, 2003, 117 Stat. 1785; Pub. L. 112-239, div. C, title XXXI, § 3131(y), Jan. 2, 2013, 126 Stat. 2185.)

CODIFICATION

Section was formerly set out as a note under section 7381 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (c). Pub. L. 112-239 struck out subsec. (c). Prior to amendment, text read as follows: “Of the funds authorized to be appropriated in title XXXI of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) to the Department of Energy for fiscal year 1998, the Secretary shall make \$5,000,000 available for the establishment and operation of the program under subsection (b).”

2003—Subsec. (c). Pub. L. 108-136, § 3141(k)(9)(D), substituted “title XXXI of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85)” for “this title”.

PART C—FACILITIES MANAGEMENT

§ 2811. Transfers of real property at certain Department of Energy facilities

(a) Transfer regulations

(1) The Secretary of Energy shall prescribe regulations for the transfer by sale or lease of real property at Department of Energy defense nuclear facilities for the purpose of permitting the economic development of the property.

(2) The Secretary may not transfer real property under the regulations prescribed under paragraph (1) until—

(A) the Secretary submits a notification of the proposed transfer to the congressional defense committees; and

(B) a period of 30 days has elapsed following the date on which the notification is submitted.

(b) Indemnification

(1) Except as provided in paragraph (3) and subject to subsection (c), in the sale or lease of

real property pursuant to the regulations prescribed under subsection (a), the Secretary may hold harmless and indemnify a person or entity described in paragraph (2) against any claim for injury to person or property that results from the release or threatened release of a hazardous substance or pollutant or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located. Before entering into any agreement for such a sale or lease, the Secretary shall notify the person or entity that the Secretary has authority to provide indemnification to the person or entity under this subsection. The Secretary shall include in any agreement for such a sale or lease a provision stating whether indemnification is or is not provided.

(2) Paragraph (1) applies to the following persons and entities:

(A) Any State that acquires ownership or control of real property of a defense nuclear facility.

(B) Any political subdivision of a State that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

(3) To the extent the persons and entities described in paragraph (2) contributed to any such release or threatened release, paragraph (1) shall not apply.

(c) Conditions

(1) No indemnification on a claim for injury may be provided under this section unless the person or entity making a request for the indemnification—

(A) notifies the Secretary in writing within two years after such claim accrues;

(B) furnishes to the Secretary copies of pertinent papers received by the person or entity;

(C) furnishes evidence or proof of the claim;

(D) provides, upon request by the Secretary, access to the records and personnel of the person or entity for purposes of defending or settling the claim; and

(E) begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary.

(2) For purposes of paragraph (1)(A), the date on which a claim accrues is the date on which the person asserting the claim knew (or reasonably should have known) that the injury to person or property referred to in subsection (b)(1) was caused or contributed to by the release or threatened release of a hazardous substance, pollutant, or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located.

(d) Authority of Secretary

(1) In any case in which the Secretary determines that the Secretary may be required to indemnify a person or entity under this section for any claim for injury to person or property referred to in subsection (b)(1), the Secretary may settle or defend the claim on behalf of that person or entity.

(2) In any case described in paragraph (1), if the person or entity that the Secretary may be required to indemnify does not allow the Secretary to settle or defend the claim, the person or entity may not be indemnified with respect to that claim under this section.

(e) Relationship to other law

Nothing in this section shall be construed as affecting or modifying in any way section 9620(h) of title 42.

(f) Definitions

In this section, the terms “hazardous substance”, “release”, and “pollutant or contaminant” have the meanings provided by section 9601 of title 42.

(Pub. L. 107-314, div. D, title XLVIII, § 4831, formerly Pub. L. 105-85, div. C, title XXXI, § 3158, Nov. 18, 1997, 111 Stat. 2046; Pub. L. 108-7, div. D, title V, § 506, Feb. 20, 2003, 117 Stat. 158; renumbered Pub. L. 107-314, div. D, title XLVIII, § 4831, by Pub. L. 108-136, div. C, title XXXI, § 3141(k)(11), Nov. 24, 2003, 117 Stat. 1785; Pub. L. 108-137, title V, § 504(a), Dec. 1, 2003, 117 Stat. 1868; Pub. L. 113-66, div. C, title XXXI, § 3146(a)(2)(K), (i)(6), Dec. 26, 2013, 127 Stat. 1073, 1082.)

CODIFICATION

Section was formerly classified to section 7274q of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (a)(2). Pub. L. 113-66, § 3146(i)(6)(A), substituted “Secretary” for “Secretary of Energy” in introductory provisions.

Subsec. (b)(1). Pub. L. 113-66, § 3146(i)(6)(A), substituted “Secretary may hold” for “Secretary of Energy may hold”.

Subsec. (c)(1)(A). Pub. L. 113-66, § 3146(i)(6)(A), substituted “Secretary” for “Secretary of Energy”.

Subsec. (d). Pub. L. 113-66, § 3146(i)(6), substituted “Secretary” for “Secretary of Energy” in heading and “Secretary determines” for “Secretary of Energy determines” in par. (1).

Subsec. (f). Pub. L. 113-66, § 3146(a)(2)(K), substituted “section, the terms” for “section:”, struck out par. (1) which defined “defense nuclear facility”, and struck out par. (2) designation and “The terms” before “‘hazardous substance’”.

2003—Subsec. (b)(2)(D). Pub. L. 108-137, § 504(a), which directed that subsec. (b)(2) of section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (42 U.S.C. 7274q(b)(2)) be amended by adding a subpar. (D), was executed to that section as renumbered by Pub. L. 108-136 to reflect the probable intent of Congress. See Amendment note below and Effective Date of 2003 Amendment note below.

Pub. L. 108-7, which directed the amendment of “Title 42 U.S.C. 7274g” by adding subpar. (D) to subsec. (b)(2), was probably intended to amend section 3158 of Pub. L. 105-85, which was formerly classified to section 7274q of title 42 prior to renumbering and transfer to this section by Pub. L. 108-136. However, the amendment was not executed in view of the enactment of section 504 of Pub. L. 108-137 which added a substantially identical subpar. (D). See Amendment note above and Effective Date of 2003 Amendment note below.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-137, title V, § 504(b), Dec. 1, 2003, 117 Stat. 1868, provided that: “The amendment made by section 506 [probably means section 506 of Pub. L. 108-7, see 2003 Amendment note above], as amended by this section

[section 504 of Pub. L. 108-137 did not amend section 506 of Pub. L. 108-7, see 2003 Amendment note above], is effective as of the date of enactment of the National Defense Authorization Act for Fiscal Year 1998 [Nov. 18, 1997].”

§ 2812. Engineering and manufacturing research, development, and demonstration by managers of certain nuclear weapons production facilities

(a) Authority for programs at nuclear weapons productions facilities

The Administrator shall authorize the head of each nuclear weapons production facility to establish an Engineering and Manufacturing Research, Development, and Demonstration Program under this section.

(b) Projects and activities

The projects and activities carried out through the program at a nuclear weapons production facility under this section shall support innovative or high-risk design and manufacturing concepts and technologies with potentially high payoff for the nuclear security enterprise. Those projects and activities may include—

- (1) replacement of obsolete or aging design and manufacturing technologies;
- (2) development of innovative agile manufacturing techniques and processes; and
- (3) training, recruitment, or retention of essential personnel in critical engineering and manufacturing disciplines.

(Pub. L. 107-314, div. D, title XLVIII, § 4832, formerly Pub. L. 106-398, § 1 [div. C, title XXXI, § 3156], Oct. 30, 2000, 114 Stat. 1654, 1654A-467; renumbered Pub. L. 107-314, div. D, title XLVIII, § 4832, by Pub. L. 108-136, div. C, title XXXI, § 3141(k)(12), Nov. 24, 2003, 117 Stat. 1785; Pub. L. 112-239, div. C, title XXXI, § 3131(z), Jan. 2, 2013, 126 Stat. 2185; Pub. L. 113-66, div. C, title XXXI, § 3146(i)(7)(A), Dec. 26, 2013, 127 Stat. 1083; Pub. L. 113-291, div. C, title XXXI, § 3142(u), Dec. 19, 2014, 128 Stat. 3902.)

CODIFICATION

Section was formerly set out as a note under section 7274r of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291 struck out “for Nuclear Security” after “The Administrator”.

2013—Pub. L. 113-66 substituted “managers of certain nuclear weapons production facilities” for “plant managers of certain nuclear weapons production plants” in section catchline.

Subsec. (b). Pub. L. 112-239, § 3131(z)(1), substituted “nuclear security enterprise” for “nuclear weapons complex” in introductory provisions.

Subsecs. (c) to (e). Pub. L. 112-239, § 3131(z)(2), struck out subsecs. (c) to (e), which related, respectively, to funding, a report, and definition of “nuclear weapons production facility”.

ACTIVITIES AT COVERED NUCLEAR WEAPONS FACILITIES

Pub. L. 108-447, div. C, title III, § 308, Dec. 8, 2004, 118 Stat. 2959, provided that: “The Administrator of the National Nuclear Security Administration may authorize the manager of a covered nuclear weapons research, development, testing or production facility to engage in research, development, and demonstration activities with respect to the engineering and manufacturing ca-

pabilities at such facility in order to maintain and enhance such capabilities at such facility: *Provided*, That of the amount allocated to a covered nuclear weapons facility each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: *Provided further*, That for purposes of this section, the term ‘covered nuclear weapons facility’ means the following:

- “(1) The Kansas City Plant, Kansas City, Missouri.
- “(2) The Y-12 Plant, Oak Ridge, Tennessee.
- “(3) The Pantex Plant, Amarillo, Texas.
- “(4) The Savannah River Plant, South Carolina.
- “(5) The Nevada Test Site.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-137, title III, §308, Dec. 1, 2003, 117 Stat. 1861.

Pub. L. 108-7, div. D, title III, §308, Feb. 20, 2003, 117 Stat. 154.

Pub. L. 107-66, title III, §309, Nov. 12, 2001, 115 Stat. 509.

Pub. L. 106-377, §1(a)(2) [title III, §310], Oct. 27, 2000, 114 Stat. 1441, 1441A-80.

§ 2813. Pilot program relating to use of proceeds of disposal or utilization of certain Department of Energy assets

(a) Purpose

The purpose of this section is to encourage the Secretary of Energy to dispose of or otherwise utilize certain assets of the Department of Energy by making available to the Secretary the proceeds of such disposal or utilization for purposes of defraying the costs of such disposal or utilization.

(b) Use of proceeds to defray costs

(1) Notwithstanding section 3302 of title 31, the Secretary may retain from the proceeds of the sale, lease, or disposal of an asset under subsection (c) an amount equal to the cost of the sale, lease, or disposal of the asset. The Secretary shall utilize amounts retained under this paragraph to defray the cost of the sale, lease, or disposal.

(2) For purposes of paragraph (1), the cost of a sale, lease, or disposal shall include—

- (A) the cost of administering the sale, lease, or disposal;
- (B) the cost of recovering or preparing the asset concerned for the sale, lease, or disposal; and
- (C) any other cost associated with the sale, lease, or disposal.

(c) Covered transactions

Subsection (b) applies to the following transactions:

- (1) The sale of heavy water at the Savannah River Site, South Carolina, that is under the jurisdiction of the Defense Environmental Management Program.
- (2) The sale of precious metals that are under the jurisdiction of the Defense Environmental Management Program.
- (3) The lease of buildings and other facilities located at the Hanford Reservation, Washington, that are under the jurisdiction of the Defense Environmental Management Program.
- (4) The lease of buildings and other facilities located at the Savannah River Site that are under the jurisdiction of the Defense Environmental Management Program.

(5) The disposal of equipment and other personal property located at the Rocky Flats Defense Environmental Technology Site, Colorado, that is under the jurisdiction of the Defense Environmental Management Program.

(6) The disposal of materials at the National Electronics Recycling Center, Oak Ridge, Tennessee that are under the jurisdiction of the Defense Environmental Management Program.

(d) Applicability of disposal authority

Nothing in this section shall be construed to limit the application of subchapter II of chapter 5 and section 549 of title 40 to the disposal of equipment and other personal property covered by this section.

(Pub. L. 107-314, div. D, title XLVIII, §4833, formerly Pub. L. 105-85, div. C, title XXXI, §3138, Nov. 18, 1997, 111 Stat. 2039; renumbered Pub. L. 107-314, div. D, title XLVIII, §4833, and amended Pub. L. 108-136, div. C, title XXXI, §3141(k)(13), Nov. 24, 2003, 117 Stat. 1786; Pub. L. 112-239, div. C, title XXXI, §3131(aa), Jan. 2, 2013, 126 Stat. 2185.)

CODIFICATION

Section was formerly set out as a note under section 7256 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsec. (e). Pub. L. 112-239 struck out subsec. (e). Prior to amendment, text read as follows: “Not later than January 31, 1999, the Secretary shall submit to the congressional defense committees a report on amounts retained by the Secretary under subsection (b) during fiscal year 1998.”

2003—Subsec. (d). Pub. L. 108-136, §3141(k)(13)(D), substituted “subchapter II of chapter 5 and section 549 of title 40” for “sections 202 and 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484(j))”.

§ 2814. Department of Energy energy parks program

(a) In general

The Secretary of Energy may establish a program to permit the establishment of energy parks on former defense nuclear facilities.

(b) Objectives

The objectives for establishing energy parks pursuant to subsection (a) are the following:

- (1) To provide locations to carry out a broad range of projects relating to the development and deployment of energy technologies and related advanced manufacturing technologies.
- (2) To provide locations for the implementation of pilot programs and demonstration projects for new and developing energy technologies and related advanced manufacturing technologies.
- (3) To set a national example for the development and deployment of energy technologies and related advanced manufacturing technologies in a manner that will promote energy security, energy sector employment, and energy independence.
- (4) To create a business environment that encourages collaboration and interaction between the public and private sectors.

(c) Consultation

In establishing an energy park pursuant to subsection (a), the Secretary shall consult with—

- (1) the local government with jurisdiction over the land on which the energy park will be located;
- (2) the local governments of adjacent areas; and
- (3) any community reuse organization recognized by the Secretary at the former defense nuclear facility on which the energy park will be located.

(d) Report required

Not later than 120 days after January 7, 2011, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of the program under subsection (a). The report shall include such recommendations for additional legislative actions as the Secretary considers appropriate to facilitate the development of energy parks on former defense nuclear facilities.

(e) Defense nuclear facility defined

In this section, the term “defense nuclear facility” has the meaning given the term “Department of Energy defense nuclear facility” in section 2286g of title 42.

(Pub. L. 111–383, div. C, title XXXI, § 3124, Jan. 7, 2011, 124 Stat. 4515.)

CODIFICATION

Section was enacted as part of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, and not as part of the Atomic Energy Defense Act which comprises this chapter.

PART D—OTHER MATTERS

§ 2821. Repealed. Pub. L. 112–239, div. C, title XXXI, § 3131(q)(2), Jan. 2, 2013, 126 Stat. 2183

Section, Pub. L. 107–314, div. D, title XLVIII, § 4851, formerly Pub. L. 105–85, div. C, title XXXI, § 3153(f), Nov. 18, 1997, 111 Stat. 2044; renumbered Pub. L. 107–314, div. D, title XLVIII, § 4851, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(k)(15), Nov. 24, 2003, 117 Stat. 1786, required Secretary of Energy to submit to Congress semiannual reports on local impact assistance provided during the preceding six months.

§ 2822. Payment of costs of operation and maintenance of infrastructure at Nevada National Security Site

Notwithstanding any other provision of law and effective as of September 30, 1996, the costs associated with operating and maintaining the infrastructure at the Nevada National Security Site, Nevada, with respect to any activities initiated at the site after that date by the Department of Defense pursuant to a work-for-others agreement may be paid for from funds authorized to be appropriated to the Department of Energy for activities at the Nevada National Security Site.

(Pub. L. 107–314, div. D, title XLVIII, § 4852, formerly Pub. L. 104–201, div. C, title XXXI, § 3144, Sept. 23, 1996, 110 Stat. 2838; renumbered Pub. L.

107–314, div. D, title XLVIII, § 4852, by Pub. L. 108–136, div. C, title XXXI, § 3141(k)(16), Nov. 24, 2003, 117 Stat. 1786; Pub. L. 112–239, div. C, title XXXI, § 3131(bb)(1)(B), (C), Jan. 2, 2013, 126 Stat. 2185.)

AMENDMENTS

2013—Pub. L. 112–239 substituted “Nevada National Security Site” for “Nevada Test Site” in section catchline and in two places in text.

CHAPTER 43—PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

Sec.	
2901.	Findings.
2902.	Definitions.

SUBCHAPTER I—PROLIFERATION SECURITY INITIATIVE

2911. Proliferation Security Initiative improvements and authorities.
2912. Authority to provide assistance to cooperative countries.

SUBCHAPTER II—ASSISTANCE TO ACCELERATE PROGRAMS TO PREVENT WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

2921. Statement of policy.
2922. Authorization of appropriations for the Department of Defense Cooperative Threat Reduction Program.
2923. Authorization of appropriations for the Department of Energy programs to prevent weapons of mass destruction proliferation and terrorism.

SUBCHAPTER III—OFFICE OF THE UNITED STATES COORDINATOR FOR THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

2931. Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.
2932. Sense of Congress on United States-Russia cooperation and coordination on the prevention of weapons of mass destruction proliferation and terrorism.

§ 2901. Findings

The 9/11 Commission has made the following recommendations:

(1) Strengthen “counter-proliferation” efforts

The United States should work with the international community to develop laws and an international legal regime with universal jurisdiction to enable any state in the world to capture, interdict, and prosecute smugglers of nuclear material.

(2) Expand the Proliferation Security Initiative

In carrying out the Proliferation Security Initiative, the United States should—

- (A) use intelligence and planning resources of the North Atlantic Treaty Organization (NATO) alliance;
- (B) make participation open to non-NATO countries; and
- (C) encourage Russia and the People’s Republic of China to participate.

(3) Support the Cooperative Threat Reduction program

The United States should expand, improve, increase resources for, and otherwise fully